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SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI REGISTER

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SECRETARY OF STATE

JOHN R. ASHCROFT

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

EDITOR-IN-CHIEF

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•

MANAGING EDITOR

STEPHANIE MARTIN

•

PUBLICATION SPECIALIST II

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•

EDITOR II

VONNE KILBOURN

•

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ADMINISTRATIVE AIDE III

TAMMY WINKELMAN

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please see the website at sos.mo.gov/adrules/pubsched.

HOW TO CITE RULES AND RSMO

RULES

The rules are codified in the *Code of State Regulations* in this system–

Title	CSR	Division	Chapter	Rule
3 Department	<i>Code of State Regulations</i>	10- Agency division	4 General area regulated	.115 Specific area regulated

and should be cited in this manner: 3 CSR 10-4.115.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation; for example, 3 CSR 10-4.115, NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and Register on the Internet

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

The *Code* address is sos.mo.gov/adrules/csr/csr

The *Register* address is sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) business days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 10—Food Safety and Meat Inspection

EMERGENCY AMENDMENT

2 CSR 30-10.010 Inspection of Meat and Poultry. The director is amending section (2).

PURPOSE: *This amendment ensures that the current rule language clearly includes the most recent publication of Part 300 to end of Title 9, the Code of Federal Regulations for the Missouri Meat and Poultry Inspection Program to be in compliance with federal regulations and maintain "equal to" status as determined by the United States Department of Agriculture/Food Safety and Inspection Service.*

EMERGENCY STATEMENT: *This emergency amendment is necessary to serve the compelling governmental interest to inform state agencies and the public of the most current adoption of Title 9 Code of Federal Regulations Parts 300 to end is incorporated into state regulation. The State Meat and Poultry Inspection (MPI) programs are required to operate in a manner and with authorities that are "at least equal to" the antemortem and postmortem inspection, re-inspection, sanitation, recordkeeping, and enforcement provisions as provided for in the Federal Meat Inspection Act and the Poultry Products Inspection Act. State MPI programs must stay current with and be able to explain how their programs are equal to FSIS regulations to ensure their rules are "at least equal to" USDA/FSIS and in*

compliance with federal regulations. Therefore, an amendment to clarify the most current federal meat and poultry inspection regulations are being incorporated by reference and provide enforcement authority in Missouri. This regulation applies to approximately fifty-seven (57) state inspected meat and poultry establishments and three hundred thirty-seven (337) custom exempt plants in Missouri, which as a whole, produces millions of dollars in Missouri's economy. This emergency amendment protects the public health, safety, and/or welfare under a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protection extended in the Missouri and United States Constitutions. The Department of Agriculture believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed January 11, 2022, becomes effective January 26, 2022, and expires July 24, 2022.

(2) The standards used to inspect Missouri meat and poultry slaughter and processing shall be those shown in Part 300 to end of Title 9, the *Code of Federal Regulations* (January 20(21)22), herein incorporated by reference and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, DC 20402-0001, phone: toll-free (866) 512-1800, DC area (202) 512-1800, website: <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: *section 265.020, RSMo 2016. Original rule filed Sept. 14, 2000, effective March 30, 2001. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Jan. 11, 2022, effective Jan. 26, 2022, expires July 24, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

PUBLIC COST: *This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.*

PRIVATE COST: *This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.*

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo.

EXECUTIVE ORDER

22-01

WHEREAS, integrating, aligning, and coordinating Missouri's public and private childhood education, home visiting, and child care programs will lead to better outcomes, improve the overall effectiveness of the state's early childhood support and services, and improve access for Missouri families; and

WHEREAS, Executive Order 21-02 created the Office of Childhood within the Missouri Department of Elementary and Secondary Education in furtherance of this goal; and

WHEREAS, the Department of Elementary and Secondary Education established the State Interagency Coordinating Council in 2005 pursuant to section 160.905, RSMo, for the purpose of maintaining compliance with 34 C.F.R. Part 303 Subpart G; and

WHEREAS, the federal Improving Head Start for School Readiness Act of 2007, 42 U.S.C. § 9837b(b)(1)(A), requires the governor of each state to designate or establish a state advisory council on early childhood education and care as part of a parallel federal effort to ensure coordination and collaboration within the states; and

WHEREAS, the Missouri Coordinating Board for Early Childhood ("Coordinating Board") was created in 2004 in section 210.102, RSMo, prior to the creation of the Office of Childhood, to serve as a coordinating body for interagency early childhood programs and services under 42 U.S.C. § 9837b(b)(1)(A); and

WHEREAS, the Office of Childhood integrated nearly all state early childhood programs and services into one agency, thereby necessitating a repurposing of the Coordinating Board; and

WHEREAS, the Governor is further required by 42 U.S.C. § 9837b(b)(1)(A)(ii) to designate an individual charged with coordinating the activities of the state advisory council; and

WHEREAS, the Governor may designate an existing entity in the state to serve as the state advisory council under 42 U.S.C. § 9837b(b)(1)(B); and

WHEREAS, for the efficient functioning of government, the state advisory and coordinating responsibilities should be integrated into one body to avoid duplication of efforts and streamline support staff activities.

NOW, THEREFORE I, MICHAEL PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, hereby establish the Missouri Early Childhood State Advisory Council ("Advisory Council") and designate the members of the State Interagency Coordinating Council to serve as the Advisory Council.

The Advisory Council shall consist of the following members, as required by Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431–1444, and 42 U.S.C. § 9837b(b)(1)(C), and as appointed by the Governor:

1. One representative from the Missouri Department of Elementary and Secondary Education.
2. One representative from the Missouri Department of Social Services.
3. One representative from the Missouri Department of Mental Health.
4. One representative from the Missouri Department of Commerce and Insurance.
5. One member from the Missouri General Assembly.
6. One individual involved in personnel preparation.
7. One representative of a local educational agency in Missouri.
8. One representative of an institution of higher education in Missouri.
9. The State Director of Missouri Head Start.

10. One early care and education provider.
11. One representative designated by the Office of the Coordination of Education of Homeless Children and Youth.
12. Four First Steps providers.
13. Four parents of children with disabilities age twelve or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. One of those parents must be a parent of a child with a disability age six or younger.

The membership of the State Interagency Coordinating Council shall now be modified to be identical to the Advisory Council. However, the Advisory Council shall act as a distinct entity for the purpose of fulfilling the responsibilities outlined here. Each member of the State Interagency Coordinating Council shall be considered a voting member of the Advisory Council. The State Interagency Coordinating Council minutes shall explicitly distinguish actions and votes of the Advisory Council, and the Advisory Council must officially adjourn prior to acting as the State Interagency Coordinating Council. Each Advisory Council member's term shall be concurrent with his or her service to the State Interagency Coordinating Council.

The Assistant Commissioner of the Office of Childhood is designated to coordinate the activities of the Advisory Council.

The Advisory Council shall have the following duties and responsibilities:

1. The Advisory Council shall meet the criteria and carry out the duties and function prescribed by relevant federal law, in addition to any responsibilities assigned to the Advisory Council by the Governor, including:
 - a. Conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school entry, including an assessment of the availability of high-quality pre-kindergarten services for low-income children;
 - b. Identify opportunities for, and barriers to, collaboration and coordination among federally-funded and state-funded child development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;
 - c. Develop recommendations for increasing the overall participation of children in existing federal, state, and local childcare and early childhood education programs, including outreach to underrepresented and special populations;
 - d. Develop recommendations regarding the establishment of a unified data collection system for public early childhood education and development programs and services;
 - e. Develop recommendations regarding statewide professional development and career advancement plans for early childhood educators;
 - f. Assess the capacity and effectiveness of 2- and 4-year public and private institutions of higher education toward supporting the development of early childhood educators, including the extent to which such institutions have in place articulation agreement, professional development, and career advancement plans, and practice or internships for students to spend time in a Head Start or pre-kindergarten program;
 - g. Make recommendations for improvements in state early learning standards and undertake efforts to develop high-quality comprehensive early learning standards, as appropriate; and
 - h. Perform all other functions, as permitted under federal and state law, to improve coordination and delivery of early childhood education and development to children.
2. The Advisory Council shall hold public hearings and provide an opportunity for public comment on the activities as described in paragraph 1 and shall periodically submit a statewide strategic report addressing the activities described in paragraph 1 to the state Director of Head Start Collaboration and the Governor, under 42 U.S.C. § 9837b(b)(1)(D)(ii).

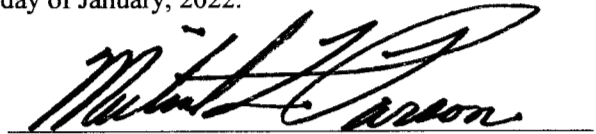
Members of the Advisory Council shall serve voluntarily. Members of the Advisory Council shall not receive compensation for performance of their duties, but may be reimbursed for necessary expenses associated with

performance of their duties, subject to the availability of funds. Officers or employees of state agencies who are appointed to the Advisory Council as part of their duties shall be authorized to participate on the Advisory Council and may claim subsistence, allowance, mileage, or associated expenses from their respective agency budgets as permitted by law.

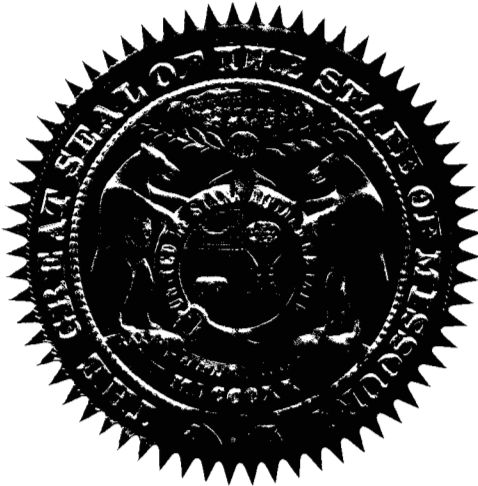
The Advisory Council shall be subject to Chapter 610, RSMo.

In order to facilitate the work of the Advisory Council, Missouri's public agencies shall, to the extent permissible under state and federal law, assist in providing all data necessary to fulfill the Advisory Council's duties.

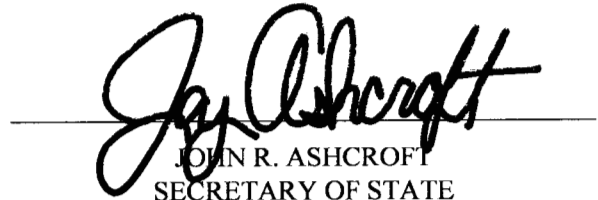
IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 7th day of January, 2022.



MICHAEL L. PARSON
GOVERNOR



ATTEST:



JOHN R. ASHCROFT
SECRETARY OF STATE

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION Division 20—Personnel Advisory Board and Division of Personnel Chapter 5—Working Hours, Holidays, and Leaves of Absence

PROPOSED AMENDMENT

1 CSR 20-5.020 Leaves of Absence. The Personnel Advisory Board is amending sections (1) and (8).

PURPOSE: *This amendment expands bereavement leave to include allowing such leave as a result of the death of the employee's step-sibling or spouse's sibling or step-sibling, and removes obsolete language.*

(1) Annual leave or vacation with pay shall be governed by the following provisions:

(B) Annual leave or vacation with pay shall not be allowed to employees who are employed on a noncontinuing basis in positions of limited duration requiring less than the equivalent of six (6) months of full-time employment in any twelve- (12-)/- month period, whether this be on *a[n emergency,]* temporary, *[limited temporary,]* hourly, or per diem basis. Employees who are ineligible to earn annual leave under this rule shall be identified as ineligible at the time of appointment or assignment and shall be notified of their ineligibility. If the term of limited duration employment is extended to the equivalent of six (6) months or more of full-time work in any twelve- (12-)/- month period, the employee shall be credited with earned annual leave for that period of employment in excess of six (6) months. If a limited duration appointment is followed without break in service by appointment to a position of a continuing or permanent nature, the employee shall be credited with earned leave for the initial period of limited duration employment;

(8) Time off with compensation shall be governed by the following provisions:

(B) With the approval of the appointing authority, an employee may be granted time off from duty, with compensation, for any of the following reasons:

1. Attendance at professional conferences, institutes, or meetings when attendance, in the opinion of the appointing authority, may be expected to contribute to the betterment of the service. Proof of actual attendance at these meetings may be required by the appointing authority;

2. Attendance at in-service training and other courses designed to improve the employee's performance or to prepare the employee for advancement;

3. Absence, not to exceed five (5) consecutive workdays, due to the bereavement of an employee as a result of the death of the employee's spouse, child, sibling, **step-sibling**, parent, step-parent, grandparent or grandchild, and spouse's child, **sibling**, **step-sibling**, parent, step-parent, grandparent or grandchild, or a member of the employee's household. The final decision concerning the applicability and length of such leave under this section shall rest with the appointing authority. Other absences due to the death of loved ones, when approved by the appointing authority, shall be charged to an employee's accumulated annual or compensatory leave;

4. Leaves of absence for five (5) workdays to serve as a bone marrow donor and leaves of absence for thirty (30) workdays to serve as a human organ donor as defined in section 105.266, RSMo. Leave is authorized under these circumstances only when the employee is serving as the donor and written verification is provided to the appointing authority; and

5. Because of extraordinary reasons sufficient in the opinion of the appointing authority to warrant such time off with compensation.

AUTHORITY: *section 36.070, RSMo Supp. [2018] 2021, and section 36.350, RSMo 2016. Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 12, 2022.*

PUBLIC COST: *This proposed amendment will cost state agencies or political subdivisions thirty-five thousand nine hundred thirty-three dollars and eleven cents (\$35,933.11) annually in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Casey Osterkamp, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no*

*later than the date of the public hearing, April 12, 2022, which is fifty-six (56) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 9:00 A.M., April 12, 2022, at the Harry S. Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Office of Administration
Division Title: Personnel Advisory Board and Division of Personnel
Chapter Title: Working Hours, Holidays and Leaves of Absence**

Rule Number and Name:	1 CSR 20-5.020 Leaves of Absence
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of Administration	\$1,832.22 annually
Dept. of Agriculture	\$353.56 annually
Dept. of Commerce and Insurance	\$854.98 annually
Dept. of Conservation	\$1,277.70 annually
Dept. of Corrections	\$6,250.84 annually
Dept. of Economic Development	\$238.00 annually
Dept. of Elementary and Secondary Education	\$1,435.28 annually
Dept. of Health and Senior Services	\$1,527.85 annually
Dept. of Higher Education and Workforce Development	\$286.38 annually
Dept. of Labor and Industrial Relations	\$587.17 annually
Dept. of Mental Health	\$4,971.17 annually
Dept. of Natural Resources	\$1,484.44 annually
Dept. of Public Safety	\$4,848.36 annually
Dept. of Revenue	\$852.27 annually
Dept. of Social Services	\$4,514.29 annually
Dept. of Transportation	\$4,618.61 annually
Total	\$35,933.11 annually

III. WORKSHEET

227,267 Average number of bereavement leave hours used statewide in fiscal years
2019-2021 (217,972, 224,157, 239,672)

*

0.03 See Assumption 1

=

6,818.01 Expected additional bereavement leave hours per year

6,818.01 Expected additional bereavement leave hours per year

*

0.5 See Assumption 5

*

0.5 See Assumption 6

=

1,704.5 Reduced annual leave usage per year as a result of bereavement leave
expansion

1,704.5 Reduced annual leave usage per year

*

0.98 See Assumption 7

=

1,670.41 Total cost in annual leave hours

Explanation: Annual leave hours that would have been taken absent this policy change, and that would not have lapsed at some later time, represent hours that must be liquidated and paid out to employees upon separation from state employment. In the absence of bereavement leave expansion, these annual leave hours would have been used by the employee and would not have been paid out upon separation, so they represent the projected public cost per year of bereavement leave expansion.

State Agency	Employees	Avg. Salary	Estimated Cost of Compliance
Office of Administration	1,684	\$24.34	\$1,832.22
Dept. of Agriculture	361	\$21.91	\$353.56
Dept. of Commerce and Insurance	693	\$27.60	\$854.98
Dept. of Conservation	1,459	n/a	\$1,277.70*
Dept. of Corrections	8,250	\$16.95	\$6,250.84
Dept. of Economic Development	232	\$22.95	\$238.00
Dept. of Elementary and Secondary Education	1,511	\$21.25	\$1,435.28
Dept. of Health and Senior Services	1,578	\$21.66	\$1,527.85
Dept. of Higher Education and Workforce Development	317	\$20.21	\$286.38

Dept. of Labor and Industrial Relations	607	\$21.64	\$587.17
Dept. of Mental Health	6,199	\$17.94	\$4,971.17
Dept. of Natural Resources	1,472	\$22.56	\$1,484.44
Dept. of Public Safety	4,827	\$22.47	\$4,848.36
Dept. of Revenue	1,104	\$17.27	\$852.27
Dept. of Social Services	5,623	\$17.96	\$4,514.29
Dept. of Transportation	5,115	\$20.20	\$4,618.61
Total	41,032	n/a	\$35,933.11

Explanation: Estimated cost is calculated by multiplying the agency's average salary amongst employees who took bereavement leave in fiscal year 2021 by the 2% COLA effective January 1, 2022, by the agency's percentage share of total state employment, by the total annual leave hours figure calculated above, and then by 1.0765 to account for the additional employer share of Medicare and Social Security taxes. Annual leave payouts made upon separation from state employment do not include employer contributions to any other fringe benefits.

** Department of Conservation bereavement leave usage data is not available to the Office of Administration in the SAM II system. The estimate for this state agency has been calculated using the average per capita estimated cost at the other 15 state agencies.*

IV. ASSUMPTIONS

A. Demographic Assumptions

- 1) The 13 existing categories of deaths causing an employee to be eligible to take bereavement leave (employee's spouse, child, sibling, parent, step-parent, grandparent, or grandchild; spouse's child, parent, step-parent, grandparent, or grandchild; or a member of the employee's household), on average, have larger populations and higher mortality rates than the three new categories of eligibility (employee's step-sibling and spouse's sibling and step-sibling). This expanded eligibility will result in no more than three percent more eligible deaths per year.
- 2) The frequency of the occurrence of an eligible death and the average length of bereavement leave taken per eligible death will be the same going forward across all state agencies.
- 3) Average salary was calculated by averaging the salary of the employees who took bereavement leave at each state agency in fiscal year 2021. This average is a better estimate than using the agency-wide average salary or the statewide average salary.

B. Leave Usage Assumptions

- 4) Employees will be equally likely to take bereavement leave for the death of a step-sibling or spouse's sibling or step-sibling as they are to take bereavement leave for the 13 existing categories of deaths eligible for bereavement leave and will take, on average, an equal number of leave hours.
- 5) Prior to this expansion of bereavement leave, employees would have had to take annual leave in instances of death of a step-sibling or spouse's sibling or step-sibling

- because bereavement leave was unavailable. With bereavement leave now available, employees will be twice as likely to decide to take leave time.
- 6) Prior to this expansion of bereavement leave, employees would have had to take annual leave in instances of death of a step-sibling or spouse's sibling or step-sibling because bereavement leave was unavailable. With bereavement leave now available, those employees who would have decided to take annual leave previously would have used 50% fewer hours of leave per eligible death than they will going forward with bereavement leave now available.
 - 7) 2% of annual leave that is retained because of this bereavement leave expansion will ultimately lapse pursuant to the leave sweep provision of 1 CSR 20-5.020(1)(D).
 - 8) State agencies will not hire part-time employees and will not incur additional overtime costs in absorbing the duties of employees taking bereavement leave that would not have been taken prior to this expansion.
 - 9) The possession of more annual leave that previously would have been used to take time off for an ineligible death will not impact future annual leave usage by an employee.

C. General Assumptions

- 10) The average employee salaries used for these calculations is adjusted for the 2% cost-of-living adjustment effective January 1, 2022 but is not adjusted for any other salary adjustments or in anticipation of uncertain future salary adjustments.
- 11) Employee headcount data in total and at each state agency is taken from the SAM II Talent Management Dashboard as of November 30, 2021. Future employee headcount is not adjusted in anticipation of uncertain future increases or decreases in staffing.
- 12) The provisions of 1 CSR 20-5.020 relating to bereavement leave apply to all 16 executive agencies pursuant to section 36.350, RSMo. Any elected officials or other branches of government that choose to follow this regulation do so voluntarily, and the fiscal impact of those choices is not part of the fiscal impact of this proposed amendment.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 10—Food Safety and Meat Inspection**

PROPOSED AMENDMENT

2 CSR 30-10.010 Inspection of Meat and Poultry. The director is amending section (2).

PURPOSE: This amendment ensures that the current rule language clearly includes the most recent publication of Part 300 to end of Title 9, the *Code of Federal Regulations* for the Missouri Meat and Poultry Inspection Program to be in compliance with federal regulations and maintain “equal to” status as determined by the United States Department of Agriculture/Food Safety and Inspection Service.

(2) The standards used to inspect Missouri meat and poultry slaughter and processing shall be those shown in Part 300 to end of Title 9, the *Code of Federal Regulations* (January 20/21/22), herein incorporated by reference and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C./J. 20402-0001, phone: toll-free (866) 512-1800, DC area (202) 512-1800, website: <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: section 265.020, RSMo 2016. Original rule filed Sept. 14, 2000, effective March 30, 2001. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Jan. 11, 2022, effective Jan. 26, 2022, expires July 24, 2022. Amended: Filed Jan. 11, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by website: <https://agriculture.mo.gov/proposed-rules/> or by mail: Missouri Department of Agriculture, attn: Meat Inspection Program, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer
Protection
Chapter 60—Missouri Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

2 CSR 90-60.020 Definitions. The Missouri Department of Agriculture is amending section (5).

PURPOSE: This rule is being amended to more clearly define an original survey.

(5) Original Survey—A survey which creates a new parcel[, or parcels, out of a larger parent tract]. **Boundary adjustment plats, consolidation plats, riparian plats, lot splits, and minor subdivisions are examples of original surveys.**

AUTHORITY: sections 60.510(7), 60.550, and 448.2-109, RSMo

2016. Material in this rule was originally covered in 10 CSR 30-2.020. Original rule filed Dec. 1, 2016, effective June 30, 2017. Amended: Filed Jan. 13, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Weights, Measures and Consumer Protection, Land Survey Program, PO Box 937, Rolla, MO 65402, via facsimile at (573) 368-2379, or via email at landsurv@mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer
Protection
Chapter 60—Missouri Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

2 CSR 90-60.030 General Land Surveying Requirements. The Missouri Department of Agriculture is amending sections (2) and (3).

PURPOSE: This rule is being amended to correct a typo in subsection (2)(A) and paragraph (3)(C)3. and to add clarification regarding the establishment of permanent monuments in paragraph (3)(C)1.

(2) Field Investigation. The professional land surveyor or a person under his/her direct personal supervision shall—

(A) Search thoroughly for monuments and accessories at the necessary controlling corners and any other physical evidence that may be required to define the location of the exterior corners of the parcel surveyed (such as: location of streets, roads, lines of occupation, and [parole] parol information);

(3) Monumentation[.]—

(C) Additional Monumentation for Subdivision Surveys.

1. In addition to meeting the requirements set forth above, the professional land surveyor shall, prior to the recording of the subdivision plat, establish at least two (2) permanent monuments for every four (4) acres of land developed by the subdivision. **In cases where the lots of the subdivision are two (2) acres or larger, permanent monuments will be established so each tract has at least one (1) permanent monument.** This requirement is waived if the survey does not create more than four (4) lots or parcels.

2. The permanent monuments required in paragraph (3)(C)1. shall be set prior to the recording of the plat or if likely to be destroyed by construction, may be installed upon completion of the construction and must be set no later than twelve (12) months after the recording of the plat. The professional land surveyor shall also monument all lot corners in the subdivision with semi-permanent or witness monuments within the same twelve- (12-) month period.

3. When the subdivision is a cemetery, the requirements of [sub]paragraph (3)(C)1. for installation of permanent monuments shall be increased to include four (4) permanent monuments per block and the monumentation of all lot corners required in paragraph (3)(C)2. shall not be required; and

AUTHORITY: sections 60.510(7), 60.550, and 448.2-109, RSMo 2016. Material in this rule was originally covered in 10 CSR 30-2.030. Original rule filed Dec. 1, 2016, effective June 30, 2017. Amended: Filed Jan. 13, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Weights, Measures and Consumer Protection, Land Survey Program, PO Box 937, Rolla, MO 65402, via facsimile at (573) 368-2379, or via email at landsurv@mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer
Protection
Chapter 61—United States Public Land Survey
Corners**

PROPOSED AMENDMENT

2 CSR 90-61.010 Definitions. The Missouri Department of Agriculture is amending the rule purpose.

PURPOSE: The reference to Chapter 3 in the “PURPOSE” paragraph of this rule should have been changed to Chapter 61 when the previous revisions were made to this rule in 2017. Due to this oversight, this rule is being amended for housekeeping purposes.

PURPOSE: This rule defines the various technical and legal terms used in Chapter [3] 61.

AUTHORITY: sections 60.321 and 60.550, RSMo 2016. Rule originally filed as 10 CSR 30-3.010. Original rule filed Dec. 8, 1975, effective Dec. 18, 1975. Rescinded and readopted: Filed Feb. 10, 1982, effective May 13, 1982. Rescinded and readopted: Filed May 3, 1994, effective Dec. 30, 1994. Moved to 2 CSR 90-61.010 and amended: Filed Dec. 1, 2016, effective June 30, 2017. Amended: Filed Jan. 13, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Weights, Measures and Consumer Protection, Land Survey Program, PO Box 937, Rolla, MO 65402, via facsimile at (573) 368-2379, or via email at landsurv@mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer
Protection
Chapter 63—Standards for Surveyor’s Real
Property Report**

PROPOSED AMENDMENT

2 CSR 90-63.010 Surveyor’s Real Property Report. The Missouri Department of Agriculture is amending sections (1), (2), and (3), and subsections (4)(E) and (5)(A)-(D).

PURPOSE: Reference to the Minimum Standards in section (3) should have been changed to the Missouri Standards when that revision was made to all other rules in Chapter 60 in 2017. The words “Electronic Distance Measuring” have been placed in front of the acronym EDM for clarification in section (3). Also, in an effort to make the rules located in Chapter 60 through Chapter 65 more uniform, the words “professional or professional land” have been added to the words “surveyor” or “land surveyor.” This rule is being amended for housekeeping purposes.

(1) A [registered] licensed professional land surveyor in Missouri shall not provide to any party a Surveyor’s Real Property Report unless they are in the possession of a work order specified elsewhere in this chapter and signed by the borrower/purchaser indicating that they have been advised of the different types of surveying services available and the scope of each of these services. The required work order is to be initiated and signed during the loan application process. The Surveyor’s Real Property Report is to be used only for residential[/] single-family detached dwellings[/], duplexes[/], triplexes, and fourplexes with not more than one (1) dwelling structure per previously surveyed and recorded parcel or tract. The Surveyor’s Real Property Report is not to be used for commercial, institutional, industrial buildings, or multifamily dwellings which share a common entranceway or stairwell.

(2) Research and Records—The professional land surveyor shall perform adequate research, maintain sufficient recorded documentation, and provide the field crew with information necessary to locate the property in the field.

(3) Field Procedures—Detailed notes shall be taken on each Surveyor’s Real Property Report and kept as a part of the professional land surveyor’s permanent records. A diligent search for existing control shall be made by the field crew and the highest order of monumentation available shall be used. Monumentation is defined as permanent and semi-permanent monuments described in the [Minimum] Missouri Standards for Property Boundary Surveys and other survey control, such as stones, axles, rebars, crosses, and pipes. Occupation lines, such as fence lines, hedge rows, and mowing lines, are not considered monumentation unless supported by survey control. The professional land surveyor must obtain sufficient evidence relating to the property boundary to demonstrate general knowledge of the given area. Appropriate field instrumentation and measuring equipment needed to achieve the stated level of certainty shall be utilized. The norm would include Electronic Distance Measuring (EDM), theodolite, transits, and measuring tapes.

(4) Form of Report—The report is a drawing of the parcel and it shall be furnished to the borrower/purchaser and shall show the following:

(E) Easements shown on the subdivision plat shall be shown. If documentation of other easements is provided the professional land surveyor, they shall be shown together with their source;

(5) Certification—A Surveyor’s Real Property Report shall not contain the word survey in any part of the report except as required in this standard, and must contain the following:

(A) The name, address, and telephone number of the **professional land** surveyor responsible for the report and the name of the party who ordered the work;

(B) A statement that the report was either conducted by the **professional** land surveyor or under his/her immediate personal supervision, the date the report was made, and the real property description or the public record reference of the property shown in the report;

(C) A statement that the accompanying drawing is a representation of the conditions that were found at the time of the inspection and that the report does not constitute a property boundary survey and is subject to any inaccuracies that a subsequent property boundary survey may disclose. It shall state the fact that no property corners were set, and that the information shown on the drawing should not be used to construct any fence, structure, or other improvements. If the property dimensions are based upon unverified recorded or deed information, this shall be so stated. Include notification that the **professional** land surveyor is not extending a warranty to the present or future owners or occupants; and

(D) The **professional** land surveyor shall sign, seal, and date the report.

*PURPOSE: This rule states the information given below must be contained in the [w]Work [o]Order form. The **professional land** surveyor may want to include other data in the form.*

AUTHORITY: section 60.510(7), RSMo 2016. This rule originally filed as 10 CSR 30-5.011. Original rule filed May 3, 1994, effective Dec. 30, 1994. Moved to 2 CSR 90-63.010, effective Aug. 28, 2013. Amended: Filed Jan. 13, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Weights, Measures and Consumer Protection, Land Survey Program, PO Box 937, Rolla, MO 65402, via facsimile at (573) 368-2379, or via email at landsurv@mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer
Protection
Chapter 63—Standards for Surveyor's Real
Property Report

PROPOSED AMENDMENT

2 CSR 90-63.020 Required Work Order Form. The Missouri Department of Agriculture is amending the rule purpose and the Work Order form.

PURPOSE: Reference to the Minimum Standards should have been changed to Missouri Standards when that revision was made to all other rules in Chapter 60 in 2017. The National Society of Professional Surveyors (NSPS) is the legal successor organization to the American Congress on Surveying and Mapping (ACSM). Therefore, the reference to ALTA/ACSM Land Title Survey has been revised to read ALTA/NSPS Land Title Survey. Also, in an effort to make the rules located in Chapter 60 through Chapter 65 more uniform, the words "professional land" have been added to the word "surveyor" in the purpose paragraph. This rule is being amended for housekeeping purposes.

WORK ORDER

Please read carefully and indicate the type of service you wish to order.

. . . Surveyor's Real Property Report: It is a location of improvements and cursory check for encroachments onto or from the subject property based on existing but not confirmed evidence. This does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose. No property corners will be set and it should not be used or relied upon for the establishment of any fence, structure or other improvement. No warranty of any kind is extended therein to the present or future owner or occupant.

. . . Property Boundary Survey with Location of Improvement: A boundary survey of the subject property will be made and the property corners will be located and verified or reset. The improvements on the property will be located and encroachments onto or from the subject property will be determined. This survey can be used by the property owner for the construction of a fence or other improvements. The survey will meet "Missouri Standards for Property Boundary Surveys."

. . . ALTA/NSPS (American Land Title Association/National Society of Professional Surveyors) Land Title Survey: This is the most comprehensive type of survey and improvement location. It covers all the aspects of the boundary survey and improvement location and identification for any additional evidence of possession or use which could be adverse to the interests of the purchaser. This type of survey is normally only performed on commercial property because of the expense involved.

I (We), the undersigned, have read, understand and have indicated the type of service desired and have authorized the work to be performed and agree to be responsible for the bill for this survey.

Borrower/Purchaser _____ Date _____
Lender _____

Ordered by _____

Common address _____

Legal description _____

Signature _____

AUTHORITY: section 60.510(7), RSMo 2016. This rule originally filed as 10 CSR 30-5.020. Original rule filed May 3, 1994, effective Dec. 30, 1994. Moved to 2 CSR 90-63.020, effective Aug. 28, 2013. Amended: Filed Jan. 13, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Weights, Measures and Consumer Protection, Land Survey Program, PO Box 937, Rolla, MO 65402, via facsimile at (573) 368-2379, or via email at landsurv@mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer
Protection
Chapter 64—Mapping Survey Standards**

PROPOSED AMENDMENT

2 CSR 90-64.010 Definitions. The Missouri Department of Agriculture is amending section (3).

PURPOSE: This rule is being amended for the sole purpose of correcting a typo in section (3).

(3) Vertical map accuracy is defined as the rms error in elevation in terms of the project's elevation datum [or] for well-defined points only.

AUTHORITY: section 60.510(7), RSMo 2016. This rule originally filed as 10 CSR 30-6.010. Original rule filed May 3, 1994, effective Dec. 30, 1994. Moved to 2 CSR 90-64.010, effective Aug. 28, 2013. Amended: Filed Jan. 13, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Weights, Measures and Consumer Protection, Land Survey Program, PO Box 937, Rolla, MO 65402, via facsimile at (573) 368-2379, or via email at landsurv@mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.210 Confidential Information. The commission pro-

poses to amend section (2) and subsection (3)(A). If the commission adopts this rule action, the department will submit the changes to the U.S. Environmental Protection Agency (EPA) to update the Missouri State Implementation Plan (SIP). The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website <https://apps5.mo.gov/proposed-rules/welcome.action#OPEN>.

PURPOSE: This rule provides procedures and conditions for handling confidential information. The purpose of this proposed amendment is to remove the listing of specific emission data elements that could be considered confidential business information (CBI) from subparagraph (3)(A)8.E. In addition, the air program is moving the definitions of Confidential Business Information and Emission Data from 10 CSR 10-6.020, Definitions and Common Reference Tables, into the rule consistent with the air programs definitions policy. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is a letter to the Environmental Protection Agency on April 28, 2020, that withdraws the 2016 request to amend the Missouri State Implementation Plan with this regulation.

(2) Definitions. [Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.]

(A) Confidential business information—Secret processes, secret methods of manufacture or production, trade secrets, and other information possessed by a business that, under existing legal concepts, the business has a right to preserve as confidential, and to limit its use by not disclosing it to others in order that the business may obtain or retain business advantages it derives from its rights in the information.

(B) Emission data—

1. The identity, amount, frequency, concentration, or other characteristics (related to air quality) of any air contaminant which—

A. Has been emitted from an emission unit;

B. Results from any emission by the emissions unit;

C. Under an applicable standard or limitation, the emissions unit was authorized to emit; or

D. Is a combination of any of the subparagraphs (2)(B)1.A., B., or C. of this rule;

2. The name, address (or description of the location), and the nature of the emissions unit necessary to identify the emission units including a description of the device, equipment, or operation constituting the emissions unit; and

3. The results of any emission testing or monitoring required to be reported under this rule or other rules of the commission.

(C) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions. Any information or records submitted or obtained pursuant to Chapter 643, RSMo, is subject to public disclosure unless a request for confidentiality is made by the person submitting the information or records and the request has been approved pursuant to the following procedures:

(A) Procedures.

1. An owner or operator who wishes to claim confidentiality for any information submitted pursuant to this rule or other rules of the commission should submit a claim of confidentiality when the information is initially submitted. Failure to submit a claim of confidentiality when the information is initially submitted may result in public disclosure.

2. The claim of confidentiality shall be accompanied by a justification that the information is entitled to confidential treatment.

3. When information claimed to be confidential is being submitted with a permit application, emissions report, or any other documentation containing information subject to public disclosure, a separate version that may be viewed by the public shall be provided by the owner or operator.

4. Upon receipt of a claim of confidentiality, the director shall evaluate the claim and inform the owner or operator that the claim has been approved, or that a preliminary decision has been made to deny the claim in whole or in part. Until that time in which the claim is reviewed it shall be held in confidence.

5. If a claim of confidentiality is denied in the preliminary review, the owner or operator will have fifteen (15) days from the date of the denial letter to submit further justification or comments to the director for consideration in the final decision on confidentiality. The director shall inform the owner or operator of his/her final decision on whether the claim will be denied in whole or in part within ten (10) working days of receiving the owner or operator's further justification or comments.

6. The owner or operator may appeal the director's final decision to deny a claim of confidentiality, in whole or part, to the administrative hearing commission pursuant to **section** 621.250, RSMo, and 10 CSR 10-1.030. Upon the timely filing of a notice of appeal, the confidentiality of the information shall be preserved until the entry of a final order by the commission.

7. If the commission's final decision is to deny the claim of confidentiality, in whole or in part, the director shall treat the information as subject to public disclosure unless the owner or operator files a timely action for judicial review pursuant to **section** 536.110, RSMo. If a timely action for judicial review is filed, the confidentiality of the information shall be preserved until adjudication of the matter upon judicial review.

8. A claim of confidentiality under this rule shall be approved if—

A. The owner or operator has asserted a business confidentiality claim that has not expired by its terms or been withdrawn;

B. The owner or operator has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to take those measures;

C. The information is not, and has not been, reasonably obtained without the owner's or operator's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special needs in a judicial or quasi-judicial proceeding);

D. No statute specifically requires public disclosure of the information;

E. The information is not emission data *that is required to be reported to the U. S. Environmental Protection Agency under 40 CFR 51.15 with the exception of the following data elements which can be claimed to be confidential with justification the department approves:*

(I) *Activity/throughput (for each period reported);*

(II) *Emission factor;*

(III) *Winter throughput (percent);*

(IV) *Spring throughput (percent);*

(V) *Summer throughput (percent);*

(VI) *Fall throughput (percent);*

(VII) *Design capacity (including boiler capacity, if applicable) (MHDR);*

(VIII) *Primary capture and control efficiencies (percent); and*

(IX) *Total capture and control efficiency (percent)];*

and

F. The owner or operator has satisfactorily shown that—

(I) Public disclosure of the information is likely to cause substantial harm to the business' competitive position; or

(II) The information was voluntarily submitted and if disclosed, the submitter would be reluctant to provide additional information to the director in the future. Information is voluntarily sub-

mitted if the facility has no statutory, regulatory, or contractual obligation to provide the information; or the director has no statutory, regulatory, or contractual authority to obtain the information under federal or state law; and

AUTHORITY: *section 643.050, RSMo [Supp. 2013] 2016. Original rule filed Sept. 2, 1993, effective May 9, 1994. Amended: Filed May 2, 2016, effective Dec. 30, 2016. Amended: Filed Jan. 14, 2022.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *The Missouri Air Conservation Commission will hold a public hearing on March 31, 2022, beginning at 9 a.m. at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri, and online with live video conferencing. Meeting participants can join the video meeting by signing into Webex at www.webex.com and joining the meeting using the meeting number (access code): 2450 334 4139, and password: MACC. For assistance joining the meeting, call the Missouri Department of Natural Resources' Air Pollution Control Program at (573) 751-4817 or (800) 361-4827. A recording of the public hearing meeting will be available at <https://dnr.mo.gov/env/apcp/macc.htm>. Opportunity to be sworn in by the court reporter in person or over video conference to give testimony at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., April 7, 2022. Send online comments via the proposed rules web page <https://apps5.mo.gov/proposed-rules/welcome.action#OPEN>, email comments to apcprulespn@dnr.mo.gov, or mail written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.*

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 90—Missouri 911 Service Board Chapter 2—911 Financial Assistance Program

PROPOSED AMENDMENT

11 CSR 90-2.010 Definitions. The board is amending subsection (1)(G).

PURPOSE: *This amendment changes the definition of eligible applicants to include elected emergency services boards consistent with a change to section 650.335, RSMo, that became effective on August 28, 2021.*

(1) As used in this chapter, the following terms shall mean:

(G) "Eligible applicants" or "Applicants," counties *[and]*, cities, and elected emergency service boards that sections 650.330 and 655.335, RSMo, authorize to submit applications to the board for grants and loans to finance all or a portion of the costs incurred by their 911 services authorities in implementing a 911 communications service project;

AUTHORITY: *sections 650.330 and 650.335, RSMo Supp. [2020] 2021. Emergency rule filed May 6, 2020, effective May 21, 2020, expired Feb. 25, 2021. Original rule filed May 7, 2020, effective Dec. 30, 2020. Emergency amendment filed Aug. 31, 2021, effective Sept. 15, 2021, expires March 13, 2022. Amended: Filed Jan. 7, 2022.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement, and Procedure of General Applicability**

PROPOSED AMENDMENT

13 CSR 70-3.120 Limitations on Payment of Out-of-State Non-emergency Medical Services. The department is amending sections (5) and (6).

PURPOSE: This amendment adds services provided via Telemedicine and Developmental Disabilities waiver Assistive Technology to the list of services that are exempt from the requirement for prior authorization of nonemergency MO HealthNet-covered services for out-of-state providers. This amendment also changes the expiration of out-of-state nonemergency prior authorizations for transplant services from one hundred eighty (180) days to three hundred sixty-five (365) days from the date the out-of-state transplant services are approved.

(5) The patient's attending physician is responsible for obtaining prior authorization of the services s/he believes to be medically necessary.

(B) All prior authorization requests must be submitted in accordance with policies and procedures established by the MO HealthNet Division as stated in the respective *MO HealthNet Provider Manual [and provider bulletins]* which [are] is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, and at its website at [www.dss.mo.gov/mhd, June 15, 2009] <http://manuals.momed.com/manuals/>, November 4, 2021. This rule does not incorporate any subsequent amendments or additions.

(D) Prior authorization expires one hundred eighty (180) days from the date a specific service was approved by the state, **except transplant services. Prior authorization for transplant services will expire three hundred sixty-five (365) days from the date the services were approved by the state.**

(6) The following are exempt from the requirement for prior authorization of nonemergency MO HealthNet-covered services for out-of-state providers:

(C) All foster care children living outside Missouri. Nonemergency services which routinely require prior authorization will continue to require prior authorization by out-of-state providers even though the service was provided to a foster care child. Foster care children are identified on the MO HealthNet ID card with a Type of Assistance (TOA) indicator of "D" or "Z"; [and]

(D) All independent laboratory, **Developmental Disabilities waiver Assistive Technology**, and emergency ambulance services[.]; and

(E) All services provided via telemedicine, which must be performed with the same standard of care as an in-person, face-to-face service.

AUTHORITY: sections 208.153, 208.201, and 660.017, RSMo 2016. This rule was previously filed as 13 CSR 40-81.190. Emergency rule filed Sept. 18, 1981, effective Sept. 28, 1981, expired Jan. 13, 1982. Original rule filed Sept. 18, 1981, effective Jan. 14, 1982. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 7, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement, and Procedure of General Applicability**

PROPOSED AMENDMENT

13 CSR 70-3.180 Medical Pre-Certification Process. The division is amending the purpose and sections (1), (2), (4), and (7).

PURPOSE: This amendment adds clarifying language, updates an incorporation by reference, and updates outdated terms.

PURPOSE: This rule establishes the medical pre-certification process of the MO HealthNet Program for certain covered diagnostic and ancillary procedures and services prior to provision of the procedure or service as a condition of reimbursement. [This rule shall only apply to those diagnostic and ancillary procedures or services that are listed in the provider manuals, provider bulletins, or clinical edits criteria which are incorporated by reference and made a part of this rule.] The medical pre-certification process serves as a utilization management tool, allowing payment for services that are medically necessary, appropriate, and cost-effective without compromising the quality of care provided to MO HealthNet participants.

(1) Providers are required to [seek] obtain pre-certification for certain specified services [listed] as outlined in the provider manuals, provider bulletins, or clinical edits criteria documents before delivery of [the] services. This rule shall apply to diagnostic and ancillary procedures and services [listed] outlined in the provider manuals, provider bulletins, or clinical edits criteria documents when ordered by a healthcare provider, unless provided in an inpatient hospital or emergency room setting. This pre-certification process shall not include primary services performed directly by the provider. In addition to services and procedures that are available through the traditional [medical assistance] MO HealthNet program, expanded services are available to children twenty (20) years of age and under through the Healthy Children and Youth (HCY) Program. Some expanded services also require pre-certification. Certain services require pre-certification only when provided in a specific place or when they exceed certain limits. These limitations are explained in detail in subsections 13[(3)] and 14[(4)] of the [applicable provider manuals, provider bulletins,] respective MO HealthNet Provider Manual or clinical edits criteria documents, which are incorporated by reference and

made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, and at its website at www.dss.mo.gov/mhd, April 1, 2009] <http://manuals.momed.com/manuals/>, August 10, 2021. The rule does not incorporate any subsequent amendments or additions. This rule shall only apply to those diagnostic and ancillary procedures or services that are listed in the provider manuals, provider bulletins, or clinical edits criteria documents, which are incorporated by reference and made a part of this rule.

(2) All requests for pre-certification must be initiated by an enrolled medical assistance provider and approved by the MO HealthNet Division. A covered service for which pre-certification is *requested* **required** must meet medical criteria established by the MO HealthNet Division's medical consultants or medical advisory groups in order to be approved.

(4) Approved services/procedures must be initiated **or dispensed** within six (6) months of the date the pre-certification approval is issued. Services/procedures initiated **or dispensed** after the six- (6-)/- month approval period will be void and payment denied.

(7) If a pre-certification request is denied, the *medical assistance* **MO HealthNet** participant will receive a letter which outlines the reason for the denial and the procedure for appeal. The MO HealthNet participant must contact the **MO HealthNet Division's** Participant Services Unit within ninety (90) days of the date of the denial letter *if they wish* to request a hearing. After ninety (90) days a request to appeal the pre-certification decision is denied.

AUTHORITY: sections 208.153, [and] 208.201, and 660.017, RSMo [Supp. 2008] 2016. Original rule filed July 3, 2006, effective Feb. 28, 2007. Amended: Filed March 2, 2009, effective Aug. 30, 2009. Amended: Filed Jan. 7, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 4—Conditions of Participant Participation,
Rights, and Responsibilities**

PROPOSED AMENDMENT

13 CSR 70-4.100 Preventing Medicaid Payment of Expenses Used to Meet Spenddown. The division is amending the chapter title and sections (1), (3), (4), and (5).

PURPOSE: This amendment updates a legal reference in section (1) and outdated terminology throughout the rule. The amendment will change the term "Division of Medical Services" to the "MO HealthNet Division" and "recipients" to "participants."

(1) Aged persons (over sixty-five (65) years), blind persons, or peo-

ple with disabilities with income above limits established under section 208.151.1/(25)/(24), RSMo, for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits, as amended, are allowed to deduct from income incurred medical expenses (that is, spenddown) to become eligible.

(3) The *Missouri Medical Assistance* **MO HealthNet** program (Medicaid) will only reimburse enrolled Medicaid providers for covered medical expenses that exceed a recipient's spenddown amount. Medicaid does not pay the portion of a claim used to meet the applicant's spenddown obligation. For example, for the first day of coverage, the *Division of Medical Services* **MO HealthNet Division** denies or splits (partially pays) a claim or claims until the applicant's spenddown liability is reduced to zero (0).

(4) After the *Division of Medical Services* **MO HealthNet Division** has reduced the *recipient's* **participant's** liability to zero (0) for the first day of coverage, other claims submitted for that day of spenddown coverage and claims for the time remaining in the month are paid up to the Medicaid rate.

(5) *Recipients* **Participants** shall have the option to pay their monthly spenddown requirement to the *Division of Medical Services* **MO HealthNet Division**, much like a premium payment, in order to have continuous Medicaid coverage. *Recipients* **Participants** may also arrange to make the monthly spenddown payment through electronic funds transfer (EFT) from a bank account.

AUTHORITY: sections [208.151, RSMo Supp. 2004 and 208.153 and 208.201, RSMo 2000] 208.151, 208.153, 208.201, and 660.017, RSMo 2016. Emergency rule filed April 25, 2005, effective May 5, 2005, expired Oct. 31, 2005. Original rule filed April 29, 2005, effective Oct. 30, 2005. Amended: Filed Jan. 7, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 4—Conditions of Participant Participation,
Rights, and Responsibilities**

PROPOSED AMENDMENT

13 CSR 70-4.110 Placement of Liens on Property of Certain Institutionalized MO HealthNet *[Eligible Persons]* Participants. The division is amending the chapter and rule title, the purpose, and sections (1)-(6), and removing section (8).

PURPOSE: This amendment clarifies the definition of "proof of residency" and replaces outdated language throughout the regulation.

PURPOSE: This rule implements the guidelines for placement of liens on the property of certain institutionalized MO HealthNet *[eligible*

persons/ participants, in accordance with the authority given to states in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), as amended.

(1) When an applicant for MO HealthNet or a MO HealthNet participant is a patient, or will become a patient, in a nursing facility, intermediate care facility for the *[mentally retarded]* **developmentally disabled**, or other medical institution, the Department of Social Services will determine if the placement of a lien against the property of the applicant or participant is applicable. A lien is imposed on the property of an individual, in accordance with the authority given states in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), when—

(A) The MO HealthNet participant is or has made application to become a patient in a nursing facility, intermediate care facility for the *[mentally retarded]* **developmentally disabled**, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his/her income required for personal needs;

(B) The institutionalized MO HealthNet participant owns property. Property includes the homestead and all other real property in which the person has a sole legal interest or a legal interest based upon co-ownership of the property *[which is the result of a transfer of property for less than fair market value within thirty-six (36) months prior to the person entering the nursing facility];*

(C) The department has determined after notice and opportunity for hearing that there is no reasonable expectation that the person can be discharged from the facility within one hundred twenty (120) days and return home. The hearing, if requested, will proceed under the provision of Chapter 536, RSMo, before a hearing officer designated by the director of the Department of Social Services. The fact that there is no reasonable expectation that the person can be discharged from the facility within one hundred twenty (120) days and return home may be substantiated by one (1) of the following:

1. Applicant/participant states in writing that he/she does not intend to return home within one hundred twenty (120) days;

2. Applicant/participant has been in the institution for longer than one hundred twenty (120) days; *[and]* **or**

3. A physician states in writing that the applicant/participant cannot be expected to be discharged within one hundred twenty (120) days of admission; and

(D) A lien is imposed on the property unless one (1) of the following persons lawfully resides in the property:

1. The institutionalized person's spouse;

2. The institutionalized person's child who is under twenty-one (21) years of age or is blind or permanently and totally disabled; or

3. The institutionalized person's sibling who has an equity interest in the property and who was residing in such individual's home for a period of at least one (1) year immediately before the date of the individual's admission to the institution~~./;~~ **or**

4. The division may require proof of residency pursuant to this subsection. Proof of residency includes, but is not limited to, a utility bill, property tax bill, copy of permanent Missouri driver's license, copy of Missouri voter's registration verification, or copy of the most recently filed Federal 1040 income tax form in the name of the institutionalized person's spouse, child, or sibling.

(2) After determining the applicability of the lien, the MO HealthNet participant is given an Explanation of TEFRA Lien. A person who objects to the imposition of a lien **without good cause** is ineligible for medical assistance. Ineligibility is based on the person's objection without good cause to the imposition of the lien, which impedes the department's ability to implement its lien requirements.

(3) A lien may be imposed upon the property but the department will not seek adjustment or recovery of the costs of medical assistance

correctly paid on behalf of the participant when the participant's child over the age of twenty-one (21) resides in the home and facts are established, to the satisfaction of the department, by sworn affidavit of the participant's child or authorized representative with personal knowledge of the facts, conclusively showing that—

(A) The participant's child has lived with and cared for the participant in the participant's home continuously for the two (2) years immediately prior to the participant entering a nursing facility, intermediate care facility for the *[mentally retarded]* **developmentally disabled**, or other medical institution;

(B) By providing that care the participant's child has allowed the participant to live at home rather than in a nursing facility, intermediate care facility for the *[mentally retarded]* **developmentally disabled**, or other medical institution;

(C) The participant's child continues to reside in the home since the participant entered into a nursing facility, intermediate care facility for the *[mentally retarded]* **developmentally disabled**, or other medical institution;

(4) The director of the department or the director's designee will file for record, with the recorder of deeds of the county in which any real property is situated, a written Certificate of TEFRA Lien. The lien will contain the name of the MO HealthNet participant and a description of the property. The recorder will note the time of receiving such notice and will record and index the certificate of lien in the same manner as deeds of real estate are required to be recorded and indexed. The county recorder shall be reimbursed *[by presenting a statement showing the number of certificates and releases filed each calendar quarter to the Department of Social Services]* **per certificate or release filed by the division.**

(5) The TEFRA lien *[will]* **shall** be for *[the]* a debt due to the state for medical assistance paid or to be paid on behalf of the MO HealthNet participant. The amount of the lien will be for the full amount due the state at the time the lien is enforced. Fees paid to county recorder of deeds for filing of the lien will be included in the amount of the lien.

(6) The TEFRA lien does not affect ownership interest in a property until it is sold, transferred, or leased, or upon the death of the individual, at which time the lien must be satisfied, subject to the following:

(B) Subject to the provisions of subsection (6)(A), in any case of a pending probate matter in a court of the state of Missouri for the administration of the assets and interests of the participant, including the property subject to the lien, then the following probate costs and expenses may be paid from the sale of the real estate at closing ahead of the lien:

1. Filing fees, publication fees, appraisal fees, personal representative fees, executor fees, attorney's fees;

2. Costs to maintain and repair the property for sale~~./;~~, such as~~./~~ insurance premiums, **professional** lawn care **services**, necessary repairs to prepare for sale, customary real estate sales commissions, **or** publication of sale notice~~./;~~, and the participant or authorized representative shall produce documentation to support costs and incurred expenses; *[and]* **or**

3. Burial costs of the participant; and

[[8] The department shall apply a cost effectiveness review for each TEFRA lien when a reduction of recovery on the lien is requested. It shall be cost effective to accept a reduced recovery on a lien when the reduction is less than five hundred dollars (\$500) and it appears that rejection of the reduced recovery would result in an even greater reduction in recovery, no recovery at all, or result in additional costs that net a recovery which is less than the requested reduction in recovery.]

AUTHORITY: sections 208.201 [and], 208.215, and 660.017, RSMo [Supp. 2011] 2016. Emergency rule filed Aug. 15, 2005, effective Sept. 1, 2005, expires Feb. 27, 2006. Original rule filed May 16, 2005, effective Nov. 30, 2005. Amended: Filed Dec. 15, 2011, effective June 30, 2012. Amended: Filed Jan. 10, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 4—Conditions of Participant Participation,
Rights, and Responsibilities**

PROPOSED AMENDMENT

13 CSR 70-4.120 Department is the Payer of Last Resort, Department's [Lien] Claim for Recovery, Participant's Duty of Cooperation. The Department of Social Services is amending the chapter title, title of the rule, and sections (4), (5), (7), (9), (10), (12), and (13).

PURPOSE: This proposed amendment updates the email address for cost recovery, requires proof of verifiable authority to receive records, requires an itemized listing with detailed description of expenses, and replaces outdated language throughout the regulation.

(4) MO HealthNet Division has a [lien] claim against recovery for past medical treatment.

(E) A notice of claim to a liable third party shall set forth the current amount of the claim. That claim amount shall be valid for thirty (30) days from the date of the notice. The claim amount may increase or decrease over time depending upon the submission and payment of provider claims and credits. It shall be the responsibility of the participant, **the participant's attorney, or the participant's appointed representative** to obtain a valid claim amount from the division when the current claim amount is older than thirty (30) days when seeking to recover medical expenses from a liable third party.

(G) Any potentially liable third party who is aware, or reasonably should be aware, of the claim [or lien] of the department for recovery of medical expenses due to a participant shall keep the department advised of its current contact information[,/] including, but not limited to, mailing address and telephone number.

(5) MO HealthNet Division only has a [lien] claim against recovery for past medical treatment. Participants, their attorney(s), agents, and other representatives, liable or potentially liable third parties, and insurers shall allocate in settlement agreements that portion of the settlement which is recovery for past medical treatment.

(7) Duty of participant, agents, and third parties to cooperate with the division. Participants, their attorney(s), agents, and other representatives, and liable or potentially liable third parties shall fully cooperate with and assist the division, as required by section 208.215.4, RSMo, by providing information identifying liable third

parties, providing information to assist the division in pursuit of any resources available from liable third parties and insurers, and in obtaining any resources to which the participant has a claim so the division can recover reimbursement for medical expenses. The duty continues and includes the duty to timely supplement as new information is discovered or known by the participant and the participant's attorneys, agents, and other representatives.

(A) No participants, attorneys, agents, or other legal representatives shall have the authority to bind the division to any settlement or compromise of any [lien or] claim of the division without prior written authorization from the division.

(D) Notification to the division. All notifications to the division under this section shall be delivered as follows:

1. By mail through the United States Postal Service or other postal or package service, to MO HealthNet Division, [Cost Recovery] **Third Party Liability** Unit, PO Box 6500, 615 Howerton Court, Jefferson City, MO 65102; or

2. By facsimile transmission (573-526-1162) to MO HealthNet Division, [Cost Recovery] **Third Party Liability** Unit; or

3. By email to MO HealthNet Division, [Cost Recovery] **Third Party Liability** Unit sent to the email address MHD.costrecovery@dss.mo.gov; or

4. By telephonic communication (573-751-2005) to MO HealthNet Division, [Cost Recovery] **Third Party Liability** Unit.

(9) Form of notification to the division and for request for claim amount. Notification to the department and requests for claim amount shall be made in writing and directed to the MO HealthNet Division in one of the manners specified above in subsection (7)(D) of this rule.

(C) Requests from agents of the participant must be accompanied by a letter of representation on the agent's official letterhead and must include a valid, currently dated, HIPAA release signed by the participant or a person with verifiable authority to sign for release of the participant's protected information. **Proof of verifiable authority must be sent in with the HIPAA release.**

(10) *Pro rata [lien] claim* reduction for attorney fees. A participant, his agents, or attorneys may request from the division a *pro rata* reduction of the [lien] claim amount based upon the total attorney fees and reasonable expenses approved by the division and actually incurred by the participant in pursuit of the claims against the liable third party(s).

(A) Any request for a *pro rata* reduction in the [lien] claim shall be made to the division in writing and include all necessary information and supporting documentation regarding the settlement or recovery, including, but not limited to:

1. The total amount of settlement or recovery;
2. The total amount of the settlement or recovery which is compensation for past medical treatment related to the incident;
3. The total amount of contractual attorney fees incurred;
4. The **itemized list with detailed description and** total amount of reasonable division-approved expenses;
5. A detailed listing of the claimed expenses with individual items and amounts claimed; and
6. A copy of any written documentation of the settlement or recovery terms.

A. All settlement documentation and information shall be kept strictly confidential by the division and its staff.

(12) Insurance payments where the division asserts a claim. Any payment by any insurer which is from medical payment coverage is subject to the claim [and lien] of the division for recovery of medical expenses up to the total amount of the department's [lien] claim.

(13) Informal process to dispute the amount of the division's [lien] claim. If a participant disputes the amount [of the lien] claimed by the division, the participant or the participant's attorney shall first

make a written request to the division within fifteen (15) days of notification of the division's *[lien]* claim amount to review the *[lien]* claim amount for specific alleged errors for correction before seeking other avenues for resolution of the dispute.

(A) Those items which may be reviewed informally for correction may include, but are not limited to:

1. Miscalculation of *pro rata* reduction;
2. Inclusion of charges for services not related to the participant's claim against the liable third party giving rise to the *[lien]* claim;
3. Omission of charges for services related to the participant's claim against the liable third party giving rise to the *[lien]* claim;
4. Incorrect amounts billed or paid for medical assistance;
5. Miscalculation within the billing statement;
6. Claims that the treatments billed were not actually provided to the participant; and
7. Claims that the person identified in the billing statement is not the same person identified in the division's *[lien]* claim.

(B) Written requests for informal review of a disputed *[lien]* claim shall be delivered to the MO HealthNet Division, *[Cost Recovery]* Third Party Liability Unit, PO Box 6500, 615 Howerton Court, Jefferson City, MO 65102 or may be sent by facsimile transmission or e-mail address MHD.costrecovery@dss.mo.gov.

(C) Participants not represented by an attorney or other legal representative may request informal review by oral communication in person or by telephone by calling the *[Cost Recovery]* Third Party Liability Unit if written communication is not a reasonable form of communication due to disability or other extenuating circumstance.

(D) Upon receipt of a complete and detailed request for informal review due to a participant's dispute of the *[lien]* claim, the division shall provide a written response to the requesting participant, or his or her representative.

(E) If the informal dispute procedure does not resolve the dispute of the *[lien]* claim to the satisfaction of the participant, the participant may seek resolution of the disputed *[lien]* claim through the procedures set out in section 208.080, RSMo, after receipt of the division's written response following the division's review of the dispute.

AUTHORITY: sections 208.201 [and], 208.215, and 660.017, RSMo [Supp. 2013] 2016. Original rule filed Sept. 26, 2013, effective March 30, 2014. Amended: Filed Jan. 10, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—MO HealthNet Division Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.020 Procedures for Admission Certification, Continued Stay Review, and Validation Review of Hospital Admissions. The division is amending the title and section (1).

PURPOSE: This amendment adds the definition of "written request" which allows the ability to email or fax the record request letters to providers.

(1) The following definitions will be used in administering this rule:

(W) Utilization review assistant. Utilization review assistant means a person who is employed by or is under contract with the medical review agent who is the preliminary reviewer to assess the need for nurse review when the Milliman Care Guidelines is not immediately met; [and]

(X) Validation review. Validation review means a review conducted after admission certification has been approved. The review is focused on validating the admitting information and confirming the determination of medical necessity of the admission./; and

(Y) Written Request. A notice to the address of the provider as listed in the MO HealthNet Division's system, in writing, transmitted via the U.S. mail or other private or common carrier, facsimile, e-mail, or any other method/mode of transmittal that is deemed by MO HealthNet to be an efficient, cost-effective, verifiable, and a reliable method or mode of communication with the provider, applying provider, or provider's representative.

AUTHORITY: sections 208.201 and 660.017, RSMo [Supp. 2013] 2016. Emergency rule filed Oct. 20, 1989, effective Nov. 1, 1989, expired Feb. 28, 1990. Original rule filed Nov. 2, 1989, effective Feb. 25, 1990. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 7, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—MO HealthNet Division Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.030 Payment and Payment Limitations for Inpatient Hospital Care. The MO HealthNet Division is amending section (1).

PURPOSE: This amendment updates the incorporation by reference language and the link for the MO HealthNet exempt diagnosis table.

(1) For inpatient hospital admissions that do not require certification as specified in 13 CSR 70-15.020, the number of days which MO HealthNet will cover for each admission [can be located at the following website:] is included in the MO HealthNet exempt diagnosis table, which is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at [https://dss.mo.gov/mhd/providers/pdf/\[e\]/Exempt-\[d\]/Diagnosis-\[t\]/Table.pdf](https://dss.mo.gov/mhd/providers/pdf/[e]/Exempt-[d]/Diagnosis-[t]/Table.pdf), November 9, 2021. All other admissions require certification per 13 CSR 70-15.020. This rule does not incorporate

any subsequent amendments or additions.

(A) The MO HealthNet program shall be administered by the Department of Social Services, MO HealthNet Division. The services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the division and shall be included in the MO HealthNet provider manuals, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, **and** at its website [dss.mo.gov/mhd, June 15, 2016] at <https://dss.mo.gov/mhd/>, **November 9, 2021**. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: section 208.152, RSMo Supp. [2014] 2021, and sections 208.153 and 208.201, RSMo [Supp. 2013] 2016. This rule was previously filed as 13 CSR 40-81.051. Emergency rule filed April 7, 1981, effective April 20, 1981, expired July 10, 1981. Original rule filed April 7, 1981, effective July 11, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 10, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 65—Rehabilitation Center Program

PROPOSED AMENDMENT

13 CSR 70-65.010 Rehabilitation Center Program. The MO HealthNet Division is amending sections (1) and (7).

PURPOSE: This amendment changes the record retention time from five (5) years to six (6) years.

(1) Administration. The MO HealthNet rehabilitation center program shall be administered by the Department of Social Services, MO HealthNet Division. The rehabilitation center services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the MO HealthNet Division and shall be included in the rehabilitation center provider manual [*and bulletins*], which [*are*] is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, **and** at its website at [dss.mo.gov/mhd, September 15, 2014] http://manuals.momed.com/collections/collection_reh/print.pdf, **November 24, 2020**. This rule does not incorporate any subsequent amendments or additions. Rehabilitation center services shall include only those that are clearly shown to be medically necessary as determined by the treating physician. The division reserves the right to [*affect*] effect changes in services, limitations, and fees with notification to rehabilitation center providers by amending this rule.

(7) Records Retention. These records must be retained for [*five (5)*] **six (6)** years from the date of service. Fiscal and medical records coincide with, and fully document, services billed to the MO HealthNet Division. Providers must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, or retain adequate documentation for services billed to the MO HealthNet program, as specified above, is a violation of this regulation.

AUTHORITY: sections 208.153, 208.201, **and 660.017**, RSMo [Supp. 2014] 2016. Original rule filed Nov. 1, 2002, effective April 30, 2003. Amended: Filed June 1, 2006, effective Dec. 30, 2006. Amended: Filed Aug. 15, 2014, effective Feb. 28, 2015. Amended: Filed Jan. 10, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE

Division 300—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Professional Landscape Architects
Chapter 16—Missouri Standards for Property Boundary
Surveys

PROPOSED AMENDMENT

20 CSR 300-16.020 Definitions. The board is amending section (5).

PURPOSE: This rule is being amended to more clearly define an original survey.

(5) Original Survey—A survey which creates a new parcel[, or parcels, out of a larger parent tract]. **Boundary adjustment plats, consolidation plats, riparian plats, lot splits, and minor subdivisions are examples of original surveys.**

AUTHORITY: sections 327.041 and 327.272, RSMo 2016. This rule originally filed as 4 CSR 30-16.020. Original rule filed May 3, 1994, effective Dec. 30, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 18, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box

184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapeplspla@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Professional Landscape Architects
Chapter 16—Missouri Standards for Property Boundary
Surveys**

PROPOSED AMENDMENT

20 CSR 2030-16.030 General Land Surveying Requirements. The board is amending sections (2) and (3).

PURPOSE: This rule is being amended to correct a typo in paragraph (2)(A) and to add clarification regarding the establishment of permanent monuments in paragraph (3)(C).

(2) Field Investigation. The professional land surveyor or a person under his/her direct personal supervision shall—

(A) Search thoroughly for monuments and accessories at the necessary controlling corners and any other physical evidence that may be required to define the location of the exterior corners of the parcel surveyed (such as location of streets, roads, lines of occupation, and [parole] **parol** information);

(3) Monumentation.

(C) Additional Monumentation for Subdivision Surveys.

1. In addition to meeting the requirements set forth above, the professional land surveyor shall, prior to the recording of the subdivision plat, establish at least two (2) permanent monuments for every four (4) acres of land developed by the subdivision. **In cases where the lots of the subdivision are two (2) acres or larger, permanent monuments will be established so each tract has at least one (1) permanent monument.** This requirement is waived if the survey does not create more than four (4) lots or parcels.

2. The permanent monuments required in paragraph (3)(C)1. shall be set prior to the recording of the plat or, if likely to be destroyed by construction, may be installed upon completion of the construction and must be set no later than twelve (12) months after the recording of the plat. The professional land surveyor shall also monument all lot corners in the subdivision with semi-permanent or witness monuments within the same twelve- (12-) month period.

3. When the subdivision is a cemetery, the requirements of paragraph (3)(C)1. for installation of permanent monuments shall be increased to include four (4) permanent monuments per block, and the monumentation of all lot corners required in paragraph (3)(C)2. shall not be required.

AUTHORITY: sections 327.041 and 327.272, RSMo 2016. This rule originally filed as 4 CSR 30-16.030. Original rule filed May 3, 1994, effective Dec. 30, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 18, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapeplspla@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Professional Landscape Architects
Chapter 19—Standards for Surveyor's Real Property
Report**

PROPOSED AMENDMENT

20 CSR 2030-19.010 Surveyor's Real Property Report. The board is amending section (3).

PURPOSE: Reference to the Minimum Standards in section (3) should have been changed to the Missouri Standards when that revision was made to all other rules in Chapter 16 in 2017. Due to this oversight, this rule is being amended for housekeeping purposes.

(3) Field Procedures—Detailed notes shall be taken on each Surveyor's Real Property Report and kept as a part of the professional land surveyor's permanent records. A diligent search for existing control shall be made by the field crew and the highest order of monumentation available shall be used. Monumentation is defined as permanent and semi-permanent monuments described in the [Minimum] Missouri Standards for Property Boundary Surveys and other survey control, such as stones, axles, rebars, crosses, and pipes. Occupation lines, such as fence lines, hedge rows, and mowing lines, are not considered monumentation unless supported by survey control. The professional land surveyor must obtain sufficient evidence relating to the property boundary to demonstrate general knowledge of the given area. Appropriate field instrumentation and measuring equipment needed to achieve the stated level of certainty shall be utilized. The norm would include Electronic Distance Measuring (EDM), theodolite, transits, and measuring tapes.

AUTHORITY: sections 327.041 and 327.272, RSMo 2016. This rule originally filed as 4 CSR 30-19.010. Original rule filed May 3, 1994, effective Dec. 30, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 18, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapeplspla@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Professional Landscape Architects**

**Chapter 19—Standards for Surveyor's Real Property
Report**

PROPOSED AMENDMENT

20 CSR 2030-19.020 Required Work Order Form. The board is amending the text of the Work Order.

PURPOSE: The National Society of Professional Surveyors (NSPS) is the legal successor organization to the American Congress on Surveying and Mapping (ACSM). Therefore, the reference to ALTA/ACSM Land Title Survey has been revised to read ALTA/NSPS Land Title Survey. This rule is being amended for housekeeping purposes.

WORK ORDER

Please read carefully and indicate the type of service you wish to order.

. . . Surveyor's Real Property Report: It is a location of improvements and cursory check for encroachments onto or from the subject property based on existing but not confirmed evidence. This does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose. No property corners will be set and it should not be used or relied upon for the establishment of any fence, structure, or other improvement. No warranty of any kind is extended therein to the present or future owner or occupant.

. . . Property Boundary Survey with Location of Improvement: A boundary survey of the subject property will be made and the property corners will be located and verified or reset. The improvements on the property will be located and encroachments onto or from the subject property will be determined. This survey can be used by the property owner for the construction of a fence or other improvements. The survey will meet "Missouri Standards for Property Boundary Surveys."

. . . ALTA/NSPS (American Land Title Association/National Society of Professional Surveyors) Land Title Survey: This is the most comprehensive type of survey and improvement location. It covers all the aspects of the boundary survey and improvement location and identification for any additional evidence of possession or use which could be adverse to the interests of the purchaser. This type of survey is normally only performed on commercial property because of the expense involved.

I (We), the undersigned, have read, understand and have indicated the type of service desired and have authorized the work to be performed and agree to be responsible for the bill for this survey.

Borrower/Purchaser _____ Date _____

Lender _____

Ordered by _____

Common address _____

Legal description _____

Signature _____

AUTHORITY: sections 327.041 and 327.272, RSMo 2016. This rule originally filed as 4 CSR 30-19.020. Original rule filed May 3, 1994, effective Dec. 30, 1994. Moved to 20 CSR 2030-19.020, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed Nov. 18, 2016, effective June 30, 2017. Amended: Filed Jan. 18, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapeplspla@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects Chapter 20—Mapping Survey Standards

PROPOSED AMENDMENT

20 CSR 2030-20.010 Definitions. The board is amending section (3).

PURPOSE: This rule is being amended for the sole purpose of correcting a typo in section (3).

(3) Vertical map accuracy is defined as the rms error in elevation in terms of the project's elevation datum *[or]* **for** well-defined points only.

AUTHORITY: section 327.041, RSMo [Supp. 2005] 2016. This rule originally filed as 4 CSR 30-20.010. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed Dec. 1, 2005, effective June 30, 2006. Moved to 20 CSR 2030-20.010, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed Jan. 18, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapeplspla@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092, 168.011, 168.071, 168.081, 168.400, 168.405, and 168.409, RSMo 2016, and section 168.021, RSMo Supp. 2021, the board amends a rule as follows:

5 CSR 20-400.540 Certification Requirements for Teacher of Secondary Education (Grades 9-12) **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1751-1752). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 700—Office of Data System Management**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under

sections 161.092 and 161.096, RSMo 2016, the board amends a rule as follows:

5 CSR 20-700.100 Statewide Longitudinal Data System **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1752). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 25—Office of Childhood
Chapter 100—Early Childhood Development**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under section 161.092, RSMo 2016, the board rescinds a rule as follows:

5 CSR 25-100.310 General Provisions Governing Programs Authorized Under Early Childhood Development, Education, and Care **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 15, 2021 (46 MoReg 1838). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 680—Food and Nutrition Services**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092, 167.201, 178.430, and 191.800-191.815, RSMo 2016, the board amends a rule as follows:

5 CSR 30-680.010 National School Meals Program **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1752-1754). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 680—Food and Nutrition Services**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092 and 178.430, RSMo 2016, the board amends a rule as follows:

**5 CSR 30-680.020 Special Milk Program for Children
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1754). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 680—Food and Nutrition Services**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092 and 178.430, RSMo 2016, the board rescinds a rule as follows:

5 CSR 30-680.030 School Breakfast Program is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1754-1755). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 680—Food and Nutrition Services**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092 and 178.430, RSMo 2016, the board amends a rule as follows:

**5 CSR 30-680.035 Food Service Equipment Assistance Program
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1755). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed

amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 680—Food and Nutrition Services**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092 and 178.430, RSMo 2016, the board amends a rule as follows:

5 CSR 30-680.040 Cash in Lieu of Commodities is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1755-1756). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 680—Food and Nutrition Services**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under section 161.092, RSMo 2016, the board rescinds a rule as follows:

**5 CSR 30-680.050 Determining Eligibility for Free and Reduced
Price Meals and Milk in Schools is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1756). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 680—Food and Nutrition Services**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092 and 167.201, RSMo 2016, the board amends a rule as follows:

5 CSR 30-680.060 Food Distribution is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1756). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 680—Food and Nutrition Services**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092 and 191.810, RSMo 2016, the board amends a rule as follows:

**5 CSR 30-680.070 Summer Food Service Program—Request for
Waiver is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1756-1757). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
AND WORKFORCE DEVELOPMENT
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Programs**

ORDER OF RULEMAKING

By the authority vested in the Department of Higher Education and Workforce Development under section 160.545.9, RSMo Supp. 2021, the Department of Higher Education and Workforce Development adopts a rule as follows:

6 CSR 10-2.195 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1757-1759). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Higher Education and Workforce Development received fifty-eight (58) comments from twenty-three (23) individuals or organizations on the proposed rule.

COMMENT #1: Aja McCoy and Sara Rutherford, with The Scholarship Foundation of St. Louis, requested elimination of the requirement that students must attend an A+-designated high school for at least two (2) years since factors that are beyond a student's control, such as transferring high schools due to a change in family circumstances, affect a student's ability to meet this requirement. Alternatively, Michele Collins, with an unknown high school, requested the scholarship be limited to only high school seniors.

RESPONSE: Both requests relate to a statutory rather than a regulatory requirement. Subsection 160.545.9, RSMo, provides this scholarship for any student who meets the requirements in subsection 8. of that statute, including attendance at an A+ high school for at least two (2) years. No changes have been made to the rule as a result of this comment.

COMMENT #2: Kellie Austene, with Hallsville High School, requested that the high school grade point average required to qualify students for this scholarship be raised from two and one-half (2.5) to three (3.0) on a four-point (4.0) scale to ensure the scholarship serves high-caliber students.

RESPONSE: Increasing the grade-point average requirement would be inconsistent with the other state student financial aid programs, including the merit-based Bright Flight scholarship. No changes have been made to the rule as a result of this comment.

COMMENT #3: Rebecca Maher with California High School, Linda Johns with Ozarks Technical Community College, and Kellie Austene with Hallsville High School indicated that the documentation requirements for verifying a student's U.S. citizenship or permanent residency create a barrier for students, and the verification itself by postsecondary institutions would violate federal prohibitions against discrimination on the basis of citizenship. In addition, the criterion automatically eliminates some students from eligibility.

RESPONSE: Paragraph 160.545.8(4), RSMo, requires that students be a U.S. citizen or permanent resident. Therefore, the requirement itself cannot be changed or eliminated through the rulemaking process. In addition, federal requirements prohibit high schools from verifying students' citizenship status as it would interfere with the right of all students to receive free K-12 public education. However, this prohibition does not apply to postsecondary institution verification of citizenship for financial aid purposes. No changes have been made to the rule as a result of this comment.

COMMENT #4: Rebecca Maher with California High School, Sharon Patton with Willow Springs High School, Cindy Aldrich with Neosho High School, Doug Peirick with New Haven High School, Michele Collins with an unknown high school, Erin Peirce with Hillsboro High School, Brittany Bowser with Republic High School, and Marlene Jackson with Cameron High School recommended this scholarship's eligibility requirements and name be decoupled from the A+ Scholarship for postsecondary students. Closely tying the two (2) scholarships creates confusion as students who are eligible for one (1) may not be eligible for the other, and students may not understand the difference.

RESPONSE AND EXPLANATION OF CHANGE: Staff agrees that there is significant potential for confusion and will remove "A+" from the references to the program's name in the rule, including the title, subsections (1)(B), (1)(O), (5)(A), and (6)(J), and section (7). In addition, the eligibility requirements found in subsection (4)(A), paragraphs (4)(A)3., (4)(A)5., and (4)(A)6., which are not required by statute, are removed. Removal of these paragraphs is also related to comments #5 and #6 below.

COMMENT #5: Senator Lauren Arthur representing District 17, Kellie Austene with Hallsville High School, and Aja McCoy and Sara Rutherford with The Scholarship Foundation of St. Louis recommended the ninety-five percent (95%) attendance requirement be reduced or eliminated as it is too stringent and unmanageable.

RESPONSE AND EXPLANATION OF CHANGE: Staff agrees that paragraph (4)(A)5. should be removed in response to comments #4 and #5. The rule is amended to remove this paragraph.

COMMENT #6: Beth Gandy with Carthage High School, Alicia Cokerham with Meadville High School, Senator Lauren Arthur representing District 17, Trish McCray with Dixon High School, Michele Collins with an unknown high school, Kellie Austene with

Hallsville High School, Marlene Jackson with Cameron High School, and Aja McCoy and Sara Rutherford with The Scholarship Foundation of St. Louis recommended that the Algebra I EOC requirement either be expanded to include any end of course exam or eliminated. Weaknesses in math but strength in other areas, COVID exemptions, and ACT test availability were cited as barriers to students.

RESPONSE AND EXPLANATION OF CHANGE: Staff agrees that paragraph (4)(A)6. should be removed in response to comments #4 and #6. The rule is amended to remove this paragraph.

COMMENT #7: Senator Lauren Arthur representing District 17 and Aja McCoy and Sara Rutherford with The Scholarship Foundation of St. Louis recommended the requirement that students be good citizens and avoid the unlawful use of drugs and/or alcohol be removed or redefined as it is too ambiguous and does not clearly identify the entity responsible for determining the requirement is met.

RESPONSE AND EXPLANATION OF CHANGE: Staff agrees that clarification of the responsible entity is needed. However, in accordance with advice received from advisory groups consisting of high school and postsecondary institution personnel, the requirement will remain, with definitions determined by local control. Paragraph (4)(A)7. is amended to indicate the A+ high school the student is attending will be responsible for determining this requirement is met.

COMMENT #8: Kellie Austene with Hallsville High School recommended that the requirement that students complete fifty (50) hours of tutoring or mentoring be removed from the rule.

RESPONSE: This requirement is only found in the A+ Scholarship rule, 6 CSR 10-2.190. It is not included in this rule, 6 CSR 10-2.195. No changes have been made to this rule as a result of this comment.

COMMENT #9: Rebecca Maher with California High School, Eric Sclesky with Raymore-Peculiar High School, Kellie Austene with Hallsville High School, Brittany Bowser with Republic High School, and Marlene Jackson with Cameron High School indicated that the high school responsibilities, including eligibility verification and student notification, were overly burdensome and that the process should be simplified.

RESPONSE AND EXPLANATION OF CHANGE: Staff agree with this comment and revised subsection (2)(A) to reduce student verification to eligible applicants only. Subsection (2)(B) is revised to indicate student eligibility will not be evaluated until this verification is received. In addition, the changes to the eligibility criteria made in response to comment #5 above will reduce the amount of verification required of high schools. Finally, functional processes outside of this rule will be adjusted to reduce the burden on high school personnel to the extent possible.

COMMENT #10: Beth Gandy with Carthage High School and Stacey Hooper with Crowder College indicated the timing of the proposed priority application deadline did not work well with dual credit enrollment deadlines. In addition, the Executive Director of the Joint Committee on Administrative Rules requested that the rule specify deadline dates.

RESPONSE AND EXPLANATION OF CHANGE: Staff agree with this comment and revised subsections (5)(A) to remove ambiguous language and (5)(B) to specify priority and final deadline dates for each semester and to identify the treatment of applications received between those dates.

COMMENT #11: Rebecca Maher with California High School, Erika Derboven with the Glasgow School District, Stacy Pitts with Clinton High School, Michele Collins with an unknown high school, and Marlene Jackson with Cameron High School requested that the need component of the scholarship be eliminated. Reasons given were that some low-income students already have their dual credit/dual enrollment tuition covered by other aid, the information

required to determine the need cutoff will not be available in time for low-income students to make informed enrollment decisions, and that this requirement is out of alignment with the A+ Scholarship, which does not have a need component as it is designed to help middle income families. One (1) commenter recommended limiting the number of credit hours instead when there is a funding shortfall.

RESPONSE: Subsection 12, paragraph (2) of section 160.545, RSMo, requires that reimbursement for this scholarship be made on the basis of financial need. Therefore, the requirement cannot be changed or eliminated through the rulemaking process. No changes have been made to the rule as a result of this comment.

COMMENT #12: Rebecca Maher with California High School, Trish McCray with Dixon High School, Becky Whitmer (affiliation unknown), and Kellie Austene with Hallsville High School requested that Free Application for Federal Student Aid (FAFSA) or Free and Reduced Lunch information be used instead of adjusted gross income (AGI) to determine student need, and that the department establish a secure method for students to transmit the documentation demonstrating their need.

RESPONSE: Subsection 12, paragraph (2) of section 160.545, RSMo, requires that reimbursement for this scholarship be made on the basis of financial need. The FAFSA is not available for all high school students and Free and Reduced Lunch does not provide sufficient information to establish a need cutoff. However, the department is exploring options for the secure transmission of the AGI information and will include the established option in functional procedures outside of this rule. No changes have been made to the rule as a result of this comment.

COMMENT #13: Beth Gandy with Carthage High School, Rebecca Maher with California High School, Trish McCray with Dixon High School, Michele Collins with an unknown high school, Becky Whitmer (affiliation unknown), and Brittany Bowser with Republic High School recommended that award notification be made earlier in the process so students with financial need could make informed enrollment decisions. This would also reduce the risk of a low-income student discovering their award was unfunded after it was too late for the student to withdraw with a refund, leading to unaffordable debt.

RESPONSE: Subsection 160.545.9, RSMo, establishes this scholarship as a reimbursement program covering actual tuition and fees. As a result, it is not possible to accelerate the process or provide early notification of awards. No changes have been made to the rule as a result of this comment.

COMMENT #14: Marilyn Allen with Affton Schools recommended that Fall 2021 awards be reimbursed since funding was provided for the 2021-2022 academic year.

RESPONSE: Implementation of this program will begin in the Spring 2022 semester to provide time for the program's policies and processes to be established. Reimbursement for the Fall 2021 term would come too late to influence student enrollment in dual credit or dual enrollment coursework for the Fall 2021 term. No changes have been made to the rule or functional processes as a result of this comment.

COMMENT #15: Marlene Jackson with Cameron High School indicated that outstanding questions needed to be addressed before spring implementation.

RESPONSE: Staff agree with this comment and will provide updated information about the program as it becomes available. No changes have been made to the rule or implementation timeline as a result of this comment.

COMMENT #16: Senator Lauren Arthur, representing District 17, recommended that the rule should allow for reimbursement of dual credit or dual enrollment coursework taken during the summer term to increase educational opportunity and scheduling flexibility for students.

RESPONSE: Advisory groups comprised of high school and postsecondary institution personnel confirmed students take a very limited amount of dual credit during the summer and highlighted issues with high school verification of either dual credit or dual enrollment courses during summer periods. No changes have been made to the rule as a result of this comment.

COMMENT #17: Beth Gandy, with Carthage High School, indicated high schools will have difficulty identifying students who are dually enrolled, creating eligibility verification issues.

RESPONSE: Staff understand these difficulties and will make extra effort to help ensure dual enrollment students are aware of the program and to assist high schools in identifying these students. No changes have been made to the rule as a result of this comment.

COMMENT #18: Aja McCoy and Sara Rutherford, with The Scholarship Foundation of St. Louis, indicated the requirements outlined in the proposed rule go beyond the legislation and would negatively impact marginalized communities.

RESPONSE: Paragraph 160.545.8.(3), RSMo, gives the Department of Higher Education and Workforce Development the authority to establish "...other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of the department...." No changes have been made to the rule as a result of this comment.

COMMENT #19: Amanda Wersching with School of the Osage High School and Madeline Culbertson with Cotter College expressed support for the program as an incentive for students to participate in postsecondary education while still in high school, benefitting students by providing challenging coursework and shortening the time to completion.

RESPONSE: Staff thanks these commenters for their support. No changes have been made to the rule as a result of this comment.

6 CSR 10-2.195 Dual Credit/Dual Enrollment Scholarship Program

(1) Definitions.

(B) Dual Credit/Dual Enrollment Scholarship shall mean the tuition reimbursement program set forth in subsection 160.545.9., RSMo.

(O) Tuition reimbursement shall mean an amount of money paid by the state of Missouri to an eligible student enrolled in dual credit or dual enrollment coursework under the Dual Credit/Dual Enrollment Scholarship program for costs related to tuition and general fees, subject to state appropriations, after all other sources of non-loan funding have been applied.

(2) Responsibilities of A+ Designated High Schools.

(A) For students who have completed a dual credit/dual enrollment scholarship application, verify they are enrolled in dual credit or dual enrollment coursework and have met the eligibility requirements listed in section (4) of this rule except for paragraph (4)(A)2.

(B) Submit the information required to verify student eligibility to the department. Student eligibility for an award will not be evaluated until this information is provided to the department.

(4) Eligibility Policy.

(A) To qualify for tuition reimbursement, a student must meet the following criteria:

1. Attend an A+ designated high school or high schools for at least two (2) years prior to the semester in which tuition reimbursement is being sought. Enrollment during the two (2) years in which the student was in attendance at one (1) or more A+ designated high schools must total a minimum of seventy-five percent (75%) of the instructional days required by the high school at which the student is enrolled while taking the dual credit or dual enrollment coursework. Interruptions in enrollment cumulatively totaling no more than twenty-five percent (25%) of instructional days in the two (2) years in which the student was in attendance at one (1) or more A+ designated high schools may occur consecutively or intermittently;

2. Be a U.S. citizen or permanent resident;

3. Meet the high school's requirements for taking dual credit or dual enrollment coursework, except that students must have a minimum overall unweighted high school grade point average of at least two and one-half (2.5) on a four-point (4.0) scale, or the equivalent on another scale, through the semester immediately preceding the semester in which tuition reimbursement is being sought;

4. Have maintained a record of good citizenship and avoidance of the unlawful use of drugs and/or alcohol through the semester immediately preceding the semester in which reimbursement is being sought as determined by the A+ high school the eligible student is attending. Student participation in the Constitution Project of Missouri may be included in a student's record of good citizenship in accordance with the A+ designated high school's policy; and

5. Be enrolled in eligible coursework.

(5) Application and Evaluation.

(A) The department shall prescribe the time and method for filing applications for tuition reimbursement under the Dual Credit/Dual Enrollment Scholarship program.

(B) Students must submit a completed application by the following deadlines to be considered for tuition reimbursement.

1. The priority deadline for the fall semester (August through December) shall be October 1 and for the spring semester (January through May) shall be February 1 of the current academic year.

2. The final deadline shall be December 1 for the fall semester and April 1 for the spring semester

3. Students filing after the priority deadline has passed and on or before the final deadline shall be considered for payment if funds are available.

(6) Award Policy.

(B) Tuition reimbursement will be as specified for the following categories of eligible coursework:

1. Completed coursework for which a grade is assigned under the institution's standard grading policy, including coursework assigned a grade of incomplete, will be reimbursed;

2. Dropped or withdrawn coursework will be reimbursed, based on the approved institution's tuition refund policy; and

3. Repeat high school dual credit or dual enrollment coursework will not be reimbursed.

(J) An eligible student's failure to provide required information by the established deadlines may result in loss of the Dual Credit/Dual Enrollment Scholarship for the period covered by the deadline.

(7) Information Sharing Policy. All information on an individual's Dual Credit/Dual Enrollment Scholarship application may be shared with the financial aid office of the approved institution providing the individual's dual credit or dual enrollment coursework, or the A+ designated high school the student is attending, to permit verification of data submitted. Information may be shared with federal financial aid offices, if necessary, to verify data furnished by state or federal governments as provided for in the Privacy Act of 1974, 5 U.S.C. sections 552 and 552a.

Title 6—DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT Division 10—Commissioner of Higher Education Chapter 14—Tuition Increases

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Higher Education and Workforce Development under section 173.1000,

RSMo 2016, and section 173.1003, RSMo Supp. 2021, the Missouri Department of Higher Education and Workforce Development amends a rule as follows:

6 CSR 10-14.010 Tuition Increases is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1958-1962). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 25—Motor Vehicle Financial Responsibility**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 303.290, RSMo 2016, the director amends a rule as follows:

12 CSR 10-25.120 Application for Certificate of Self-Insurance from Religious Denominations is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1963-1964). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 10—Division of Finance and Administrative Services
Chapter 3—Tax Credits**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, under section 135.550, RSMo Supp. 2021, and section 660.017, RSMo 2016, the Division of Finance and Administrative Services amends a rule as follows:

13 CSR 10-3.040 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1761-1762). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Division of Finance and Administrative Services received eight (8) comments on the proposed amendment, all from the Missouri Coalition Against Domestic and Sexual Violence.

COMMENT #1: Jennifer Carter Dochler, Public Policy Director, Missouri Coalition Against Domestic and Sexual Violence, commented that “This letter is written to provide public comment to the Department of Social Services (DSS) regarding its proposal that would update the administrative rules of the Domestic Violence

Shelter and Rape Crisis Center Tax Credit program due to HB 430 (2021).

The Missouri Coalition Against Domestic and Sexual Violence (MOCADSV) unites Missourians with a shared value that rape and abuse must end, and advances this through education, alliance, research and public policy. MOCADSV is a statewide membership association comprised of over one hundred domestic violence shelters and/or rape crisis centers. Many of these agencies have long relied on this tax credit program and the newly qualified agencies are very excited for the impact the tax credit program can have on their local fundraising initiatives.

We are appreciative that DSS acted so quickly to update the administrative rules of this tax credit to reflect the recent changes. There are a few clarifications and additions we respectfully ask be considered.

- Add definition information from 455.220, RSMo, to the domestic violence shelter definition.”

RESPONSE: The department considered repeating the statutory language in the rule; the department chose to reference the statute instead. By choosing to reference the statute, even if there is a change in statute, the rule will still be accurate and in accordance with the statute. No changes are being made in this amendment as a result of this comment.

COMMENT #2: Jennifer Carter Dochler, Public Policy Director, Missouri Coalition Against Domestic and Sexual Violence, commented that “This letter is written to provide public comment to the Department of Social Services (DSS) regarding its proposal that would update the administrative rules of the Domestic Violence Shelter and Rape Crisis Center Tax Credit program due to HB 430 (2021).

- Add definition from 455.003, RSMo, to the rape crisis center definition.”

RESPONSE: The department considered repeating the statutory language in the rule; the department chose to reference the statute instead. By choosing to reference the statute, even if there is a change in statute, the rule will still be accurate and in accordance with the statute. No changes are being made in this amendment as a result of this comment.

COMMENT #3: Jennifer Carter Dochler, Public Policy Director, Missouri Coalition Against Domestic and Sexual Violence, commented that “This letter is written to provide public comment to the Department of Social Services (DSS) regarding its proposal that would update the administrative rules of the Domestic Violence Shelter and Rape Crisis Center Tax Credit program due to HB 430 (2021).

- Add similar statement from (B) to (C)”

RESPONSE: This definition is provided in statute, section 455.003. No changes are being made in this amendment as a result of this comment.

COMMENT #4: Jennifer Carter Dochler, Public Policy Director, Missouri Coalition Against Domestic and Sexual Violence, commented that “This letter is written to provide public comment to the Department of Social Services (DSS) regarding its proposal that would update the administrative rules of the Domestic Violence Shelter and Rape Crisis Center Tax Credit program due to HB 430 (2021).

- Add definition for “facilities”

Definition of facilities could be “facilities, in the context of this rule, means a qualified domestic violence shelter and/or rape crisis center.”

RESPONSE AND EXPLANATION OF CHANGE: The department agrees that this suggestion adds clarity to the rule and has amended the rule, adding a definition for “facilities.”

COMMENT #5: Jennifer Carter Dochler, Public Policy Director, Missouri Coalition Against Domestic and Sexual Violence, commented that “This letter is written to provide public comment to the Department of Social Services (DSS) regarding its proposal that would update the administrative rules of the Domestic Violence Shelter and Rape Crisis Center Tax Credit program due to HB 430 (2021).”

- Section (4)(A)1. and (6) need change from “or” to “and”
- (1) Change “or” to “and”
- Rather than “A complete and accurate Domestic Violence Shelter or Rape Crisis Center Tax Credit” replace with “A complete and accurate Domestic Violence Shelter and Rape Crisis Center Tax Credit.” An agency may be a dual domestic and sexual violence agency and the tax credit is previously referenced as AND, not OR.
- Rather than “This form is known as the Domestic Violence Shelter or Rape Crisis Center Tax Credit Application for Claiming Tax Credits” replace with “This form is known as the Domestic Violence Shelter and Rape Crisis Center Tax Credit Application for Claiming Tax Credits.” An agency should have the option to check “both” if the agency qualifies as both.
- Throughout the rules, facilities should be listed as a “domestic violence shelter and/or rape crisis center” rather than “domestic violence shelter or rape crisis center.”

RESPONSE: The use of the conjunctive “or” reflects that a facility does not have to meet the definitions of both the Domestic Violence Shelter and Rape Crisis Center. Reflecting the statute, a facility can meet the requirements of one of the entities. Changing the conjunction to “and” would mean that facilities would have to meet both definitions, and would be more restrictive than the statute. No changes are being made in this amendment as a result of this comment.

COMMENT #6: Jennifer Carter Dochler, Public Policy Director, Missouri Coalition Against Domestic and Sexual Violence, commented that “This letter is written to provide public comment to the Department of Social Services (DSS) regarding its proposal that would update the administrative rules of the Domestic Violence Shelter and Rape Crisis Center Tax Credit program due to HB 430 (2021).”

- Update (4)(A)1. website address for tax credit and include an email address for tax credit
- List the specific website address rather than the generic DSS website address, <https://dss.mo.gov/dfas/taxcredit/dvtaxcredit.htm>

RESPONSE: The department chose to reference the DSS website because the location of the tax credits within the DSS website has changed in the past. The DSS website is a stable location. No changes are being made in this amendment as a result of this comment.

COMMENT #7: Jennifer Carter Dochler, Public Policy Director, Missouri Coalition Against Domestic and Sexual Violence, com-

mented that “This letter is written to provide public comment to the Department of Social Services (DSS) regarding its proposal that would update the administrative rules of the Domestic Violence Shelter and Rape Crisis Center Tax Credit program due to HB 430 (2021).”

- Include an email address to request an application; in addition to requiring they send a request in writing to the P.O. Box”

RESPONSE: The DSS website has electronic links to all tax credit applications. The benefit of the link is that it does not depend on a person to answer, it is automated. No changes are being made in this amendment as a result of this comment.

COMMENT #8: Jennifer Carter Dochler, Public Policy Director, Missouri Coalition Against Domestic and Sexual Violence, commented that “This letter is written to provide public comment to the Department of Social Services (DSS) regarding its proposal that would update the administrative rules of the Domestic Violence Shelter and Rape Crisis Center Tax Credit program due to HB 430 (2021).”

- Modernize documentation submission
- Consider alternative ways for facilities to submit the required documentation; currently, all documentation can only be received in paper format and by USPS”

RESPONSE: The department agrees that alternative ways to submit documentation would be convenient. The issue is making sure the information is submitted in a secure portal. The information associated with tax credits is highly confidential and includes Social Security numbers. Until there is a secure portal for submission, the department has opted to use paper format. This ensures there is not a data breach of taxpayer information. No changes are being made in this amendment as a result of this comment.

13 CSR 10-3.040 Domestic Violence Shelter and Rape Crisis Center Tax Credit

(2) Definition of Terms.

(B) “Facilities” means a qualified domestic violence shelter or rape crisis center, in the context of this rule.

(C) “Qualified facility for domestic violence” or “qualified facility,” for the purpose of the Domestic Violence Shelter and Rape Crisis Center Tax Credit, means a shelter for victims of domestic violence located in Missouri that meets the definition stated in section 455.220, RSMo, or a nonprofit organization established and operating exclusively for the purpose of supporting a shelter for victims of domestic violence operated by the state or one (1) of its political subdivisions.

(D) “Rape Crisis Center” means a community-based nonprofit rape crisis center, as defined in section 455.003, RSMo, located in Missouri and that provides the twenty-four- (24-) hour core services of hospital advocacy and crisis hotline support to survivors of rape and sexual assault.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 10—Division of Finance and Administrative Services Chapter 3—Tax Credits

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Finance and Administrative Services, under section 135.600, RSMo Supp. 2021, and section 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 10-3.050 Maternity Home Tax Credit is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1762-1763). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—Rules for Residential Treatment Agencies
for Children and Youth**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children’s Division, under sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division amends a rule as follows:

13 CSR 35-71.010 Definitions and Principles Generally Applicable to this Chapter is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1964-1966). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—Rules for Residential Treatment Agencies
for Children and Youth**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children’s Division, under sections 207.020 and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division adopts a rule as follows:

13 CSR 35-71.015 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1966-1973). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Children’s Division received thirty-six (36) comments on the proposed rule.

COMMENT #1: Michelle Curry, Court Services Administrator for the 2nd Judicial Circuit, commented that the 2nd Judicial Circuit dba Bruce Normile Juvenile Justice Center is a licensed residential facility which employs [sic] state workers through the Office of State Courts Administrators. We have the full authority to complete all background checks through our agency, including fingerprinting. I am requesting that in situations where the licensed residential facility is staffed with state employees, that agency be exempt from this

requirement (to have fingerprints completed by DSS-CD).

RESPONSE: 13 CSR 35-71.015(1)(F) excludes license-exempt residential care facility juvenile corrections programs operated by the Division of Youth Services (DYS) and juvenile detention facilities operated by juvenile officers or juvenile courts that are subject to the Prison Rape Elimination Act (PREA) standards and auditing.

A residential care facility that elects to become licensed by the Children’s Division (CD) subjects itself to all of the residential care facility licensure requirements prescribed by statute and regulation, including the background check procedures required by section 210.493, RSMo, regardless of whether the facility would otherwise be exempted by section 210.516, RSMo. DSS believes no changes are necessary.

COMMENT #2: Mary Chant, on behalf of Missouri Coalition for Children, commented we respectfully ask that implementation of the proposed rules be postponed until the department can be sufficiently staffed to process the background checks in a timely fashion. Organizations have had to reduce operations and, in at least one case, cease operations due to the inability to have potential staff members processed due to the backlog. While it is understood that now an organization can process independently and then resubmit through the State a second time, this is an unfair burden on a private organization to pay twice for an individual when the issue is with state processing times.

RESPONSE AND EXPLANATION OF CHANGE: The Department of Social Services (DSS) cannot unilaterally postpone implementation of House Bills 557, 560 (2021), which were enacted with emergency clauses to protect children. However, DSS recognizes that meeting the background check requirement by the end of the phase-in period without an extension of the initial phase-in period has become impracticable and perhaps impossible for reasons beyond the control of any Licensed Residential Care Facility (LRCF), License-Exempt Residential Care Facility (LERCF), or Child Placing Agency (CPA). Accordingly, DSS has amended the final rule to reflect that the phase-in period will now end on March 31, 2022, and will grant every LRCF, LERCF, and CPA that was in existence on July 14, 2021, an extension for “unusual, compelling, or extenuating circumstances” until March 31, 2022. In addition to receiving an extension of the initial phase-in period, any LRCF, LERCF, and CPA may still request an individual extension of the phase-in period by providing the division with a written explanation of why unusual, compelling, or extenuating circumstances necessitate a further extension of the phase-in period for all applicants at the LRCF, LERCF, or CPA. Extension requests may be submitted electronically to CD.NotifyRPU@dss.mo.gov or sent to the Residential Program Unit, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, 65102-0088.

Finally, DSS has amended the requirement that an LERCF attest its applicants have or will have completed the background check requirements by December 31, 2021, to reflect that such applicants have or will have completed the background check requirements by the end of the phase-in period in 13 CSR 35-71.300(5)(D)9.A.

COMMENT #3: Mary Chant, on behalf of Missouri Coalition for Children, commented that there is a disparate impact being created by the addition of new exclusionary criteria and the elimination of waivers. There are studies that show that minority populations are charged and convicted at higher rates than non-minority populations. This in turn, will likely cause a higher percentage of minorities being placed on the exclusionary list than the non-minorities. I believe we are eliminating some great role models and mentors from working in the field with these changes and the elimination of waivers. It should be our goal to help people overcome previous problems and show that resiliency means moving forward for new opportunities despite past mistakes. At a minimum, those currently on waivers should be grandfathered in and optimally allow waivers and the exclusionary criteria should only include items that are truly

a crime against a person.

RESPONSE: DSS respectfully disagrees. The legislation and rules are facially neutral. Moreover, DSS cannot ignore the statutory requirements and is not authorized to create good cause waivers or grandfathering exceptions unless provided for by law.

COMMENT #4: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding paragraph (1)(A)1. “Except as otherwise provided in this regulation, applicants for LRCFs, LERCFs and CPAs who are required to complete the background check process include: officers; managers; contractors with unsupervised access to children; volunteers with unsupervised access to children; employees; other support staff; *owners of LRCFs and LERCFs that will have access to the facilities;*”

The concern should be with anyone who has “unsupervised access to children,” instead of someone who might happen to be on property, or who will be supervised by staff?

We request that an organization be able to provisionally hire a staff person prior to receipt of a cleared background check, as long as the individual has no unsupervised interaction with any youth in care. This allows the orientation and training to begin the process. The time between background check submission and receipt of cleared background checks has resulted in an overwhelming loss of qualified applicants who have secured other employment during the waiting period.

RESPONSE: DSS respectfully disagrees. Section 210.493, RSMo, requires Licensed Residential Care Facility (LRCF) and LERCF owners to successfully complete the background check process if they have access to the facilities.

With regard to provisional hiring, currently any applicant may begin or continue work or service at any existing LRCF, LERCF, or Child Placing Agency (CPA) before successful completion of the background check process during the phase-in period, which, as was explained in response to Comment #2, will be extended until March 31, 2022. In addition, any individual LRCF, LERCF, or Child Placing Agency may request a further individual extension of the phase-in period by providing the division with a written explanation of why unusual, compelling, or extenuating circumstances necessitate an extension of the phase-in period for the LRCF, LERCF, and CPA. Extension requests may be submitted electronically to CD.NotifyRPU@dss.mo.gov or sent to the Residential Program Unit, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, 65102-0088.

COMMENT #5: Mary Chant, on behalf of Missouri Coalition for Children, commented that the cost estimate of implementation is much too low. Every current employee has to be run through a background check again, and it is not reasonable to ask an employee to pay for a background check they have already paid for and successfully passed in order to retain employment. This falls to the organization to cover, and is a substantial unfunded mandate.

RESPONSE: DSS respectfully disagrees. It is not an unfunded mandate as that term is defined in law. Rather, it is a necessary and reasonable measure to ensure that children being served in and by LRCFs, LERCFs, and CPAs are safe and protected. Moreover, DSS sought comments and input from all stakeholders before promulgating the emergency regulations and before filing these proposed regulations with the secretary of state. The department also held a public meeting in August of 2021 to solicit feedback and to answer questions. DSS specifically solicited feedback from stakeholders about the fiscal impact of the proposed regulations on their respective institutions. DSS only received three (3) responses to its Survey Monkey poll on this issue.

Finally, DSS would like to point out that DSS’ proposed regulation simply implements the requirements of the legislation implementing the background check requirement. Section 210.493.13, RSMo, says any required fees shall be paid by the individual applicant, LRCF, LERCF, or CPA. DSS believes no changes are required.

COMMENT #6: Mary Chant, on behalf of Missouri Coalition for Children, commented that we propose that the state allow co-sponsorship of the background check between the hiring agency and the state. The private agency can hire based on a cleared background check and the state would concurrently receive the information. Should the state believe that an individual was hired who did not clear the background check, the state could intercede at this point.

RESPONSE: DSS cannot adopt the commenter’s suggestion because it would conflict with the express requirements of section 210.493, RSMo.

COMMENT #7: Mary Chant, on behalf of Missouri Coalition for Children, commented that the state needs to include Rap Back in this process. Rap Backs have provided an integral safety backstop for our children, and to implement a new fingerprinting process that actually sacrifices such an important safety mechanism as Rap Back is very concerning.

RESPONSE: DSS acknowledges that a well-designed Rap Back system could strengthen the background check program, protect children, lower costs, and increase efficiency. DSS has not implemented Rap Back through the HB 557 regulations because implementation of Rap Back would require new legislation. Moreover, Rap Back is administered in the first instance by the Department of Public Safety. Consequently, DSS cannot implement the commenter’s proposal through these regulations.

COMMENT #8: Mary Chant, on behalf of Missouri Coalition for Children, commented that the restriction that the background check is valid only for the organization listed on the application needs to be eased. It would seem to me that if a person chooses to change employment or another opportunity comes up prior to a job offer being made at a specific agency and the check is no more than one year old that it would be possible for the state to utilize the original check.

RESPONSE: DSS respectfully disagrees. The paramount consideration for implementing the legislation is to protect the safety and well-being of children. DSS believes it must make eligibility determinations based on the most current information available. Furthermore, DSS believes the proposal would place other LERCFs, LRCFs, and CPAs in the position of either having to run private, duplicative checks or assuming the unacceptable risk that prospective applicants may have recent, undetected disqualifying information in their backgrounds in violation of the new requirements of section 210.493, RSMo.

COMMENT #9: Mary Chant, on behalf of Missouri Coalition for Children, commented that to require state employees who might wish to transition to the private sector and have a current background check on file to have them go through the process again is needlessly cumbersome and unnecessary.

RESPONSE: DSS respectfully disagrees for the same reasons explained in response to Comment #8.

COMMENT #10: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding paragraph (1)(A)2. This section identifies applicants who, if LERCF, do not have to complete a background check. This list does not include “fictive kin” which is an important part of aftercare considerations as identified in the QRTP requirements. Further, this section does not address LRCFs, so it is unclear as to whether LRCFs must background check all of the categories of individuals listed in this subparagraph (A., B., and C.).

RESPONSE: 13 CSR 35-71.015(1)(A)2. does not reach LRCFs (or CPAs) because it implements a background check requirement in subsection 2 of section 210.493, RSMo, that is unique to LERCFs (requiring background checks for “any person who has unsupervised contact with a resident of the [license-exempt] residential care facility”). Subsection 1, which governs LRCFs and CPAs, has no equivalent background check requirement.

Moreover, excusing fictive kin from the background check requirements for unsupervised contact with residents of LERCFs would undermine the purpose of the statutory requirement. No changes will be made.

COMMENT #11: Mary Chant, on behalf of Missouri Coalition for Children, commented that the definition of “Officer” is confusing. It lists the chairperson of the board and also lists director. We assume director refers to the board members but are not sure.

RESPONSE AND EXPLANATION OF CHANGE: “Director” refers to the director or chief executive officer of the LERCF, LRCF, or Child Placing Agency. In response to this comment, DSS has redrafted 13 CSR 35-71.015(1)(I) to define an “officer” as “any individual who holds an executive position with the LERCF, LRCF, or Child Placing Agency, including, but not limited to Board President and/or Chairperson; Board Vice President or Vice Chair; Board Secretary; Board Treasurer; any other position designated as an officer in the bylaws or articles of incorporation or organization; and the General Counsel, Headmaster, Principal, Head Teacher, and Director and/or Chief Executive Officer of the LERCF, LRCF, or Child Placing Agency;

COMMENT #12: Mary Chant, on behalf of Missouri Coalition for Children, commented that there should be the option for the employer to initiate the process on behalf of an applicant, particularly in those situations wherein the applicant does not have access to technology and/or internet.

RESPONSE: DSS has not identified anything in DSS’ proposed regulations or House Bills 557, 560 that would restrict or prohibit an employer from assisting applicants with applying for a background check, such as providing applicants with access to the internet and necessary technology to complete the background check process. However, section 210.493, RSMo, explicitly prohibits the department from revealing any disqualifying offense or other related information regarding the applicant.

COMMENT #13: Mary Chant, on behalf of Missouri Coalition for Children, commented that section (1)(E) typo in the last line “...family homes or unlicensed kinship placements mad (should be made)....”

RESPONSE AND EXPLANATION OF CHANGE: DSS has corrected the scrivener’s error.

COMMENT #14: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding subsection (2)(B), “A search of the national offender registry conducted by the division; and.”

The emphasized phrase should never have been added and should be removed. I know this may be already written into law, but it should be removed. If it cannot be removed, then there should be a timeline associated with the completion of each of these items that are to be completed by the division. For example, in this case it will be “conducted and completed within 5 business days” or something similar.

RESPONSE: DSS respectfully disagrees. Section 210.493, RSMo, requires a search of the National Crime Information Center’s National Sex Offender Registry and several other different registries operated by other state and county governments. The department cannot guarantee how long the process of checking these registries will take because the turnaround time from these different entities is beyond the control of DSS. No changes are required.

COMMENT #15: Mary Chant, on behalf of Missouri Coalition for Children, commented that section (3) second sentence should include “officers,” since this is consistent with requirements earlier in the document.

RESPONSE: DSS respectfully disagrees. Section 210.493, RSMo, explicitly requires background checks for officers. No changes are required.

COMMENT #16: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding subsection (3)(B) “State Open Records Check - required for any person that is not an employee, volunteer, contractor, owner/operator, who is eighteen years of age or older, who resides at or on the property, who has or may have unsupervised access to children for whom a licensed-exempt residential care facility provides care....”

This is unclear. Are the requirements different for this kind of employee, or the same?

RESPONSE: 13 CSR 35-71.015(3)(B) is not addressed to employees. 13 CSR 35-71.015(3)(B) affects adult LERCF residents who are not employees, volunteers, owners, operators, etc. DSS believes no changes are required.

COMMENT #17: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding section (5). This section would be the section to place a timeline requirement for the execution and notification of whether an applicant is cleared for employment (including the emailing of the applicant). Further, I would recommend it be no more than 5 business days.

RESPONSE: DSS appreciates the importance of completing the background check process as soon as possible. However, section 210.493, RSMo, requires checks of several different registries operated by other state and county governments. DSS cannot guarantee how long the process of checking the registries will take because the turnaround time from these different entities is beyond the control of the DSS. DSS expects that it may experience administrative challenges which are beyond its effective control, such as staffing shortages and technical difficulties. Finally, the time it takes to complete the background check process may also depend on the quality, accuracy, and completeness of the information that the applicant provides in the application form. DSS is committed to completing the background check process in the most expeditious manner possible.

COMMENT #18: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding paragraph (6)(B)10. “The name and address of any....”

This is unclear. Does this mean the employer gets a letter and the employee receives an email? That simply slows down the employer in determining whether to continue to pursue an employee. I’m assuming this is just an issue of clarity. Emails should inform both the applicant and the organization of their being eligible or ineligible for employment (more on that later).

RESPONSE: DSS will send notices electronically when consented to by the applicant. However, DSS will only communicate with the applicant or agency by email with the consent of the applicant.

COMMENT #19: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding subsection (6)(H) “Upon receipt of a complete application, and MOVECHS Waiver Agreement and Statement (SHP-981G) and consideration of the application, the division will notify the applicant of eligibility or ineligibility based on the background check by mailing a Notice to the applicant’s address of record, and send a copy to the LRCF, LERCF or Child Placing Agency as indicated on the application”

Email should be an included option. Email should be the default option in every step of notification, with mailing as a secondary option.

RESPONSE AND EXPLANATION OF CHANGE: DSS will amend the regulation to include emailing. However, DSS will only communicate with the applicant or agency by email with the consent of the applicant.

COMMENT #20: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding subsection (6)(I) “...If the division finds the applicant ineligible, the division shall not send a copy of the notice to any indicated LRCF, LERCF or Child Placing Agency, until the division determines the applicant has exhausted the applicant’s

administrative remedies and the division has received a written consent from the applicant authorizing the division to disclose such information.”

This is a significant inconvenience to the potential employer - who is stuck attempting to provide coverage for children but cannot do so because they can't assess the status of any particular candidate under these circumstances. The agency will be simply waiting and not know anything. If an applicant is found ineligible it is highly unlikely for them to follow through with any other correspondence with CD to give us permission to find this out. Agencies should receive some type of notification.

RESPONSE: DSS respects the concerns raised by the comment. However, DSS must administer the program in a manner that respects the constitutional rights of each applicant to due process of law. As applied here, DSS cannot make a final decision on the eligibility or ineligibility of an individual for employment or presence at the facility and cannot disclose such information to an employer until the applicant has had reasonable notice and an opportunity for administrative and judicial review of the department's decision. The department's decision is not final until the individual has been given an opportunity for administrative review. This is necessary to ensure that the applicant has the opportunity to ask the department to correct mistakes. See *Jamison vs. Dept. of Social Services, Children's Division, Jamison v. Division of Family Services*, 218 S.W.3d 399 (Mo. banc 2007). The applicant, however, may at the applicant's discretion, inform the employer of the status of the application.

COMMENT #21: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding section (8), “Notices and communications. The division will send all communications and notices pertaining to an application and Request for Administrative Review or Appeal by first class mail unless the applicant or entity requesting Administrative Review or Appeal affirmatively notifies the division, in writing, that the applicant or person would like to receive communications by email ...”

This is an unnecessary delay in notification and use of paper. Emails should be the primary choice of communication with mailed correspondence either being a parallel, concurrent process or the process which needs to be requested in writing.

RESPONSE: The department respectfully disagrees. Under the regulations, the applicant may choose how the applicant wishes to receive official notice of these proceedings. The default is by mail, but the applicant may elect to receive communications by email. The applicant can make this election in the forms which are incorporated in the regulation. DSS does not anticipate that this will be problematic in practice.

COMMENT #22: Mary Chant, on behalf of Missouri Coalition for Children, commented regarding subsection (10)(D), “...It is the responsibility of the applicant to track the expiration date of the fingerprints and submit an application for a new background check.”

The division should be responsible for sending notices out since they have chosen to take on the responsibility of background checks.

RESPONSE: DSS respectfully disagrees. It is the responsibility of each applicant and the agency that employs individuals subject to the background check requirements to ensure that each employee has completed the background check requirements. The proposal proposes an impossible administrative burden on the department without imposing additional requirements on applicants and/or employers. For example, in many cases, DSS would not know the address, contact information, or employment status of the applicant when the background check expires. The proposal would put the department in the position of having to track the employment status and contact information for thousands of individuals, which, in turn, would require the department to require applicants and the agencies that employ them to report any changes in contact information and employment status to the department.

COMMENT #23: Mary Chant, on behalf of Missouri Coalition for Children, commented that LRCFs, LERCFs, and Child Placing Agencies need to have access to complete details generated by background checks and be able to enroll in Rap Back for all employees. Prior to the enactment of HB 557 and its implementing regulations, Child Placing Agencies and LRCFs were required to conduct the same background checks now being run by DSS. This allowed LRCFs and Child Placing Agencies to make hiring decision on full background checks and be informed of arrests or convictions of their current employees through the Rap Back program. LRCFs and Child Placing Agencies were able to enroll in the Rap Back program through section 43.540, RSMo, as a qualified entity during the hiring process.

Under the proposed regulations, LRCFs, LERCFs, and Child Placing Agencies will not get the full information on the backgrounds of prospective employees. Instead, the hiring agency will only learn if the prospective employee has been convicted of a limited number of offenses specified in section 210.493.10, RSMo. Furthermore, the proposed regulations explicitly do not allow LRCFs, LERCFs, and Child Placing Agencies to obtain any information DSS obtains about their prospective employee's criminal history. See 13 CSR 35-71.015(9). LRCFs, LERCFs, and Child Placing Agencies need to have more information to make informed hiring decisions for employees taking care of children. For example, an applicant with a history of DUI convictions will receive an “eligible” designation from DSS but should not be transporting children. Under the proposed rules, the only way for LRCFs, LERCFs, and Child Placing Agencies to know the criminal background of prospective employees is to have them run the same background check again, at a cost of forty-one dollars and seventy-five cents (\$41.75) per applicant. Therefore, LRCFs, LERCFs, and Child Placing Agencies need to pay twice as much under the proposed regulation (eighty-three dollars and fifty cents (\$83.50) for every applicant) as under previous regulations to obtain the information from background checks necessary to ensure children are protected.

Additionally, LRCFs, LERCFs, and Child Placing Agencies need to be informed when an employee is arrested, charged, or convicted of a crime. The best way to obtain that information is through the Rap Back program. By DSS being listed on the Missouri State Highway Patrol Applicant Fingerprint Form for State and FBI Criminal History Background Checks as the qualified agency, LRCFs, LERCFs, and Child Placing Agencies are no longer able to access Rap Back. LRCFs, LERCFs, and Child Placing Agencies will have no notification if an employee is arrested for a crime against a child under the proposed regulations. Under current regulations, the LRCF, LERCF, or Child Placing Agency would receive immediate notice and be able to take appropriate steps to protect children. That notification and layer of protection for children will be lost under the proposed regulations.

Therefore, 13 CSR 35-71.015(9) (“The division shall not reveal any information pertaining to any disqualifying crime, offense, or other related information regarding the applicant to the LRCF, LERCF or Child Placing Agency except as may be otherwise required by law.”) should be deleted, and the proposed regulations amended to:

- List the LRCF, LERCF, or Child Placing Agency the applicant is applying to as another qualifying agency for the Missouri State Highway Patrol; and

- Mandate applicants consent to DSS notifying the LRCF, LERCF, or Child Placing Agency of all information obtained during the background screening rather than just eligibility.

RESPONSE: DSS acknowledges that a well-designed Rap Back system could strengthen the background check program, protect children, lower costs, and increase efficiency. DSS has not implemented Rap Back through the HB 557 regulations because implementation of Rap Back would require new legislation. Moreover, Rap Back is administered in the first instance by the Department of Public Safety. Consequently, DSS cannot implement the commenter's proposal

through these regulations.

COMMENT #24: Mary Chant, on behalf of Missouri Coalition for Children, commented that new employees should be able to start their employment prior to receiving an eligibility determination by DSS, so long as they do not have access to children. Proposed rule 13 CSR 35-71.015 is inconsistent on when a new employee can start. Proposed regulation 13 CSR 35-71.015(3)(A) requires background checks “for any person who is: actively employed by or seeks employment with; ... a Licensed Residential Care Facility, a License-Exempt Residential Care Facility, or a Child Placing Agency, prior to having access to children.” (Emphasis added.) However, 13 CSR 35-71.015(4)(B) states “[a]ny applicant who begins employment or service after the effective date of this regulation shall complete the background check process before beginning employment or service with a LRCF, LERCF or Child Placing Agency.” (Emphasis added.) These two (2) provisions should be harmonized to allow new employees to begin onboarding and training while still fulfilling the law’s goal of protecting children.

The proposed regulation 13 CSR 35-71.015(4)(B) should be amended to:

“Any applicant who begins employment or service after the effective date of this regulation shall complete the background check process ~~[before beginning employment or service]~~ **prior to having access to children** with a LRCF, LERCF or Child Placing Agency.”

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees in part and disagrees in part. The comment proposes amending 13 CSR 35-71.015(4)(B) to permanently allow applicants to begin employment or service before successful completion of the background check process at an LRCF, LERCF, or Child Placing Agency, provided such applicants be restricted from having access to children before successfully completing the background check process. DSS believes it cannot amend the regulation as proposed because the proposed amendment would be inconsistent with the statutory scheme. See, for instance, section 210.1263, RSMo, (requiring, among other things, background checks, regardless of access to children, for LERCF officers, managers, contractors, employees and other support staff, and owners with access to the facilities).

However, DSS agrees that 13 CSR 35-71.015(3) and 13 CSR 35-71.015(4) should be amended for clarity and further believes it can allay some of the concerns animating the comment by extending the phase-in period’s deadline to March 31, 2022. In addition to extending the phase-in period, any LRCF, LERCF, and CPA may still request an individual extension of the phase-in period by providing the division with a written explanation of why unusual, compelling, or extenuating circumstances necessitate an extension of the phase-in period for all applicants at the LRCF, LERCF, or CPA. Extension requests may be submitted electronically to CD.NotifyRPU@dss.mo.gov or sent to the Residential Program Unit, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, 65102-0088.

COMMENT #25: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (1)(F)7. should say the “Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)” instead of the “Uniform Child Custody and Jurisdiction Act” (UCCJA), which was superseded by the UCCJEA.

RESPONSE AND EXPLANATION OF CHANGE: DSS has corrected the scrivener’s error.

COMMENT #26: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subsection (1)(L) should define “Other support staff” instead of or in addition to the currently defined “Support Staff” and “Staff”; and should define the terms with greater precision. The current terms (“Support Staff” and “Staff”) and their present definition have invited confusion regarding which persons must undergo background checks. Moreover, “Other support staff” is the term subsections 1 and 2 of section 210.493,

RSMo, employ. In addition, the department may need to define “contractor”—which is also used by section 210.493, RSMo, and has also invited some confusion.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has defined “Other Support Staff” in lieu of what was (1)(L) (previously defining “Support Staff” and “Staff”) to clarify that for purposes of this regulation and any regulations implementing the background check requirements prescribed by section 210.493, RSMo, other support staff who neither work in Missouri, nor perform services in Missouri, nor have access to children in Missouri, nor have access to a residential care facility in Missouri, and who are not otherwise required to successfully complete the background check process, are not required to complete the background check process requirements in their capacities as other support staff. In addition, DSS has modified the definition of “Employee” to clarify that employees meeting the definition of “Other Support Staff” who neither work in Missouri, nor perform services in Missouri, nor have access to children in Missouri, nor have access to a residential care facility in Missouri, and who are not otherwise required to successfully complete the background check process, are deemed to be “Other Support Staff” who are not required to successfully complete background checks. DSS has not received any other formal comments regarding “Contractors” and will continue to evaluate whether a definition should be subsequently added.

COMMENT #27: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subsection (3)(A) should be redrafted to clarify that an applicant may begin or continue work or service before successful completion of the background check process at an LERCF, LRCF, or Child Placing Agency (CPA) while an extant LERCF, LRCF, or CPA remains in the phase-in period.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has made the change.

COMMENT #28: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subsections (4)(A) and (4)(B) should be redrafted to clarify that any applicant may begin or continue work or service before successful completion of the background check process at an LERCF, LRCF, or CPA who has not exited the phase-in period. The existing language has invited confusion.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has amended subsections (4)(A) and (4)(B) to clarify the phase-in will not end until March 31, 2022, for all LRCFs, LERCFs, and Child Placing Agencies (unless further extended for an individual LRCF, LERCF, or CPA); and that (4)(B) will not prevent an applicant from beginning employment or service at an existing LRCF, LERCF, or CPA while the facility or agency has not exited the phase-in period.

COMMENT #29: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subsection (6)(A) should use the zip code “65103-0088” instead of “65102” for all three uses.

RESPONSE AND EXPLANATION OF CHANGE: DSS disagrees with the zip code change and will keep 65102 as per the information provided by the post office.

COMMENT #30: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (6)(B)7. should say “section 210.493.11(5) RSMo” instead of “section 210.493.3(5) RSMo” to correctly identify disqualifying offenses.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has corrected the scrivener’s error.

COMMENT #31: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph

(6)(B)10. should have “The applicant shall further provide the name and address of the Sponsoring Organization, when applicable” deleted or amended to clarify that an applicant need only identify Sponsoring Organizations known to an applicant.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and deleted the sentence.

COMMENT #32: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subsection (6)(G) should be repunctuated for style and clarity.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has made the change.

COMMENT #33: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that section (11) should say “determining” instead of “making a decision” or the words “as to” should be inserted in the first clause (“In making a decision whether an applicant is eligible or ineligible under section 210.493 and this regulation....”).

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has corrected the scrivener’s error in accordance with the comment.

COMMENT #34: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subparagraph (12)(B)1.E. should remove “in-person” from the first sentence (“State whether the person requests that the review be considered on the basis of the materials submitted, or whether the person requests an in-person review conference”). While the division believes review conferences should be made available to those who need them, the division believes such conferences may be held telephonically or by other electronic means in most instances. Moreover, the current language has invited confusion.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has made the change. However, DSS also changed another use of an in-person review conference in (12)(B)1.E. for consistency.

COMMENT #35: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (12)(C)8. “is and” should be deleted from “The hearing is and shall not be not an opportunity to collaterally attack or re-litigate the validity....”

RESPONSE AND EXPLANATION OF CHANGE: DSS has corrected the scrivener’s error.

COMMENT #36: Erica Signars, Special Assistant Professional for the Department of Social Services, commented the following changes should be made to the application forms incorporated by reference: The Application Instructions should have “Both documents must be signed and dated” added to the first instruction. Application for a Background Check, Part II: “Place of Birth” should be substituted for “State of Birth”; “Other addresses and states of residency used within the past 5 years” should be substituted for “Other Addresses, Phone Number, or email addresses used within past 5 years”; Part III: “Incident Details (Use extra page if necessary)” should be substituted for “Incident Details (Use extra page is necessary).” The Application to Disclose Eligibility for Employment, “Name and email address of facility or child placing agency” should be substituted for “Name and address of requesting agency”; “Name and email address of facility or child placing agency” should be substituted for “Name and address of requesting agency”; “Please select your preference for receiving your results and provide the requested information” should be substituted for “Please check which way you would like to get your results and provide that information”; “Applicant Email” should be substituted for “Email”; “Applicant Mail” should be substituted for “Mail.” Form RPU-8 should be amended to divide Maternity/Infant/Toddler/Preschool into two different boxes as Maternity is a distinct specialization from Infant/Toddler/Preschool. Joint Commission on Accreditation of Healthcare Organizations

should be amended to “The Joint Commission” to reflect their name change. Form RPU-36 should be amended to substitute the following language in the attestation section: “I further certify, under oath and subject to penalty of perjury, that all individuals who are required to successfully complete background checks pursuant to section 210.493 RSMo and 13 CSR 35-71.015, 13 CSR 35-71.300, have completed background checks or will have completed background checks by December 31, 2021, unless an extension has been granted by the Division, and are eligible as provided by law.”

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has made the change.

13 CSR 35-71.015 Background Checks for Personnel of Residential Care Facilities and Child Placing Agencies

(1) Definitions. For the purpose of this regulation, unless otherwise specified in this section or unless the context clearly requires otherwise, the definitions of terms specified in sections 210.110, 210.481, and 210.1253, RSMo, shall apply to this regulation. The singular includes the plural and plural includes the singular. In addition, the following terms are defined as follows:

(A) “Applicant” means any individual who applies or is required to successfully complete the background check requirements for employment or presence at the Licensed Residential Care Facility (LRCF), License-Exempt Residential Care Facility (LERCF), or Child Placing Agency (CPA) by section 210.493, RSMo. For the purposes of background checks conducted by the Missouri State Highway Patrol of the Missouri Department of Public Safety, the term “applicant” is further defined as specified in section 43.539, RSMo.

1. Except as otherwise provided in this regulation, applicants for LRCFs, LERCFs, and CPAs who are required to complete the background check process include officers; managers; contractors with unsupervised access to children; volunteers with unsupervised access to children; employees; other support staff; owners of LRCFs and LERCFs that will have access to the facilities; and owners of LERCF, LRCF, and CPA that will have access to children.

2. Except as otherwise provided in this regulation, applicants for LERCFs who are required to complete a background check also include any applicant as defined in section 43.539, RSMo, who has unsupervised contact with a resident of the LERCF. The following individuals or classes of individuals who may have unsupervised contact with a child who is a resident of an LERCF are not deemed to be applicants and are not required to submit to background checks as provided in this subsection unless otherwise required by law or court order:

A. Legal parents, step-parents, grandparents, siblings, legal guardians, and prospective adoptive parents who do not reside on or at the LERCF but who have contact or visits with a child who resides on the property of an LERCF;

B. Licensed or other lawfully qualified individuals who do not reside at or on the property of an LERCF, who are not employees, officers, volunteers, staff, support staff of the LERCF, and who provide occasional emergency professional services within the scope of their employment pertaining to a child who resides at or on the property of the LERCF, such as licensed physicians, licensed nurses, licensed emergency medical technicians, POST certified law enforcement officers, juvenile officers, division employees, prosecuting attorneys, court appointed special advocates (CASA) assigned by a court to a child who resides at an LERCF, attorneys, and court appointed guardians *ad litem* for children who reside at an LERCF; and/or

C. Licensed or other lawfully qualified individuals who do not reside at or on the property of an LERCF, who are not employees, officers, volunteers, staff, support staff of the LERCF, and who provide reasonably necessary, professional services, maintenance in an emergency when it is necessary to protect the health and safety of individuals at the facility and background checks are not reasonably

possible under the circumstances, or government inspections on the premises of an LERCF to ensure the health and safety of the residents such as fire, health, and safety inspectors, and nationally recognized accrediting agencies, heating, construction, electrical, and plumbing contractors;

(B) "Boarding school" includes any educational institution in which some or all of the children who attend the institution reside during their attendance at the institution. Boarding schools include facilities where the children lodge in dorms, in private homes whose owners are contracted with, associated or affiliated with the institution, or in homes owned or operated by the institution regardless of whether or not the child's residence is located on or off the institution's campus;

(C) The "department" or the "division" shall refer to the Children's Division of the Missouri Department of Social Services;

(D) "Employee" is any individual who works in the service of a LERCF, LRCF, or Child Placing Agency under an express or implied contract for hire, whether written or unwritten, full time or part time, under which the LERCF, LRCF, or Child Placing Agency has the right to control the details of work performance in whole or in part. Other support staff may be employees and employees may be staff. For purposes of this regulation and any regulations implementing the background check process requirements prescribed by section 210.493, RSMo, employees of an LERCF, LRCF, or Child Placing Agency who neither work in nor perform services in Missouri, nor have access to children in Missouri, nor have access to a residential care facility in Missouri, and who are not otherwise required to successfully complete the background check process, are deemed other support staff who are not required to complete the background check process requirements in their capacities as employees;

(E) "Licensed Residential Care Facility" or "LRCF" means a facility providing twenty-four- (24-) hour care in a group setting to children who are unrelated to the person operating the facility and who are unattended by a parent or guardian, and which is required to have a license to operate as a Residential Care Facility under section 210.516, RSMo. LRCFs do not include licensed foster family homes or unlicensed kinship placements made pursuant to a juvenile or family court order;

(F) "License-Exempt Residential Care Facility" or "LERCF" means any place, facility, or home operated by any person who receives children who are not related to the operator and whose parent or guardian is not a resident of the same facility and that provides such children with supervision, care, lodging, and maintenance for twenty-four (24) hours a day, with or without transfer of custody, and that is not required to be licensed under section 210.516, RSMo. Unless exempted as provided below, LERCFs include, but are not limited to, boarding schools, juvenile detention facilities, license-exempt foster homes as defined in section 210.516, RSMo, and other congregate care facilities. LERCFs do not include:

1. Hospitals, sanitariums, and clinics operated to provide medical care and treatment and operating pursuant to a valid license issued by the Missouri Department of Health and Senior Services (DHSS), the Missouri Department of Mental Health (DMH), the United States (such as Veterans' Administration Hospitals and hospitals administered by the armed forces of the United States);

2. Boarding schools operated by the Missouri Department of Elementary and Secondary Education (DESE), provided that DESE requires background checks equivalent or more stringent than the requirements of section 210.493, RSMo;

3. Foster homes and congregate care facilities or homes licensed or certified by the DMH, provided that DMH requires background checks equivalent or more stringent than the requirements of section 210.493, RSMo;

4. Juvenile corrections programs operated by the Department of Social Services, Division of Youth Services or juvenile detention facilities operated by juvenile officers or juvenile courts which are subject to the Prison Rape Elimination Act (PREA) standards and auditing;

5. Facilities operated by the Missouri Department of Corrections and county or local jails;

6. Any individual (but not a corporation, partnership, organization, or association) who receives on a voluntary basis, the child of close, personal friends or relatives as an occasional and personal guest in their personal home or the home of the child's parent, guardian, or legal custodian, who is otherwise unaffiliated with an LRCF or LERCF and who receives custody of or provides care of no other child unrelated by consanguinity, adoption, or affinity;

7. Any individual (but not a corporation, partnership, organization, or association) who is otherwise unaffiliated with an LRCF or LERCF who receives legal custody or guardianship of a child or sibling group pursuant to a judgment or order of a court of competent jurisdiction in cases where a state or local government is not a party and in cases where the judgment or order is entered by a court outside the state of Missouri, all of the requirements of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), the Interstate Compact for the Placement of Children (ICPC), or the Interstate Compact for the Placement of Juveniles (ICJ) have been fully satisfied; and

8. Any camp which is not a boarding school, which is operated solely during certain months of the year, not to exceed four (4) months, which is conducted in good faith primarily to provide recreation or religious instruction for children, in which the children do not spend more than thirty (30) consecutive overnight periods during any twelve (12) month period, and not for ongoing residential or treatment purposes;

(G) "Manager" is any individual who administers or supervises the affairs of the LERCF, LRCF, or Child Placing Agency, including, but not limited to any individual who supervises any employees, staff, or volunteers of the LERCF, LRCF, or Child Placing Agency;

(H) "Missouri State Highway Patrol" or "MSHP" shall mean the Missouri State Highway Patrol of the Missouri Department of Public Safety;

(I) "Officer" is any individual who holds an executive position with the LERCF, LRCF, or Child Placing Agency, including but not limited to President and/or Chairperson of the Board, Board Vice President and/or Vice Chair, Board Secretary, Board Treasurer, any other position designated as an officer in the bylaws or articles of incorporation or organization; and General Counsel, Headmaster, Principal, Head Teacher, and Director and/or Chief Executive Officer of the LERCF, LRCF, or Child Placing Agency;

(J) "Owner" of an LERCF, LRCF, or Child Placing Agency is any individual who holds an equity interest in the LERCF, LRCF, or Child Placing Agency;

(K) "Sponsoring Organization" shall mean the entity that sponsors the LERCF, LRCF, or Child Placing agency, including, but not limited to, the sponsoring church or religious organization;

(L) "Other Support Staff" of a LERCF, LRCF, or Child Placing Agency include any individual who works for or performs services, including professional services, for the LERCF, LRCF, or Child Placing Agency, whether compensated or not. Other support staff may be employees and employees may be other support staff. For purposes of this regulation and any regulations implementing the background check requirements prescribed by section 210.493, RSMo. Other support staff who neither work in Missouri, nor perform services in Missouri, nor have access to children in Missouri, nor have access to a residential care facility in Missouri, and who are not otherwise required to successfully complete the background check process, are not required to complete the background check process requirements in their capacities as other support staff; and

(M) "Volunteer" of an LERCF, LRCF, or Child Placing Agency is any individual who performs a service for or on behalf of the LERCF, LRCF, or Child Placing Agency of their own free will without obligation, or without any expectation of reward or compensation.

(2) The background checks conducted pursuant to this regulation

shall consist of the following:

(A) A fingerprint-based background check of open and closed criminal history conducted in conjunction with the MSHP pursuant to section (3) of this regulation; and

(B) A search of the national offender registry conducted by the division; and

(C) A search of the following registries, repositories, or databases in Missouri, the state where the applicant resides, and each state where the applicant resided during the preceding five (5) years conducted by the division:

1. The state sex offender registry or repository (in Missouri this is a search of the MSHP Sex Offender Registry); and

2. The state family care safety registry (in Missouri this is a search of the family care safety registry); and

3. The state-based child abuse and neglect registry and database (in Missouri this is a search of the Central Registry of the division).

(3) All of the fingerprint-based background checks of closed criminal history conducted under this regulation shall be performed in conjunction with the MSHP solely through the authority of the Missouri Volunteer and Employee Criminal History Service (MOVECHS) and the National Child Protection Act, Public Law 103-209, as amended. No fingerprint-based, criminal background checks of federal records or closed criminal history shall be conducted under this regulation on clients, patients, and students of the LERCF or LRCF unless the fingerprint-based background check of closed criminal history is authorized by federal and state law and that individual is also an employee, staff, or volunteer of the LERCF or LRCF. The background checks conducted in conjunction with the MSHP will be conducted pursuant to the law, statutes, regulations, and policies governing the MSHP and will include a fingerprint background check and a state open records check as provided in this section.

(A) Fingerprint background check is a state and FBI background check is required for any person who is actively employed by or seeks employment with, actively licensed or seeks licensure with, actively volunteers or seeks to volunteer with, actively contracted with or seeks to contract with, an owner or operator of a Licensed Residential Care Facility, a License-Exempt Residential Care Facility, or a Child Placing Agency after the phase-in period.

1. The fingerprint background check will be conducted through the Missouri VECHS Program, pursuant to the National Child Protection Act, as amended.

2. Criminal history record information will consist of complete Missouri criminal history (open and closed) records, and criminal history from the Federal Bureau of Investigation. Criminal history will include convictions, arrests within thirty (30) days, pending charges and suspended imposition of sentence (SIS) during probation, not guilty findings, charges *nolle prossed*, or dismissed cases, SIS cases after probation is completed, and arrests after thirty (30) days where no charges have yet been filed or reported by the prosecuting attorney, and will include a search of the state sex offender registry.

(B) State open records check is required for any person that is not an employee, volunteer, contractor, or owner/operator, who is eighteen years of age or older, who resides at or on the property, or who has or may have unsupervised access to children for whom a License-Exempt Residential Care Facility provides care. A state open record check consists of convictions, arrests within thirty (30) days, pending charges, suspended imposition of sentence (SIS) during probation, and will include a search of the state sex offender registry.

(4) Application of this Regulation. This regulation applies to CPAs, LRCFs, and LERCFs which are subject to the notification requirements of sections 210.1250 to 210.1286, RSMo.

(A) Phase-in Period. Every LRCF, LERCF, and Child Placing Agency operating on the date that section 210.493, RSMo, and this regulation became effective shall have until March 31, 2022, for all applicants to complete background checks. The division may extend

this deadline for any individual LRCF, LERCF, and Child Placing Agency, due to unusual, compelling, and extenuating circumstances beyond the control of the LRCF, LERCF, or Child Placing Agency. The request for an extension shall be in writing and shall explain the reasons for the request for an extension. Any applicant who does not complete the background check process as specified in this regulation by the deadline shall be ineligible for employment or service with an LRCF, LERCF, or Child Placing Agency until the background check process has been successfully completed.

(B) Any applicant who begins employment or service after the effective date of the phase-in period shall complete the background check process before beginning employment or service with an LRCF, LERCF, or Child Placing Agency.

(5) Designation of Authority. The Department of Social Services hereby designates the Children's Division of the Department of Social Services to be the division within the Department of Social Services to administer background checks as required by section 210.493, RSMo. The Department of Social Services hereby designates the Administrative Hearings Unit within the Division of Legal Services of the Department of Social Services to process and decide all appeals of applicants as provided in this regulation.

(6) Application Process.

(A) The applicant shall apply for background screening through the division's online portal on forms promulgated by the division. The application forms and instructions are incorporated by reference and made a part of this rule as published by the Department of Social Services, Children's Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65102, at its website at <https://www.dss.mo.gov/provider-services/children/residential-program/background-checks.htm>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions. The applicant shall submit the completed application form and upload any supporting or supplemental forms and documentation through the division's online portal. The application must be signed by the applicant (e-signature is acceptable).

1. The applicant may apply to the division for permission to file the application and supporting documentation by mail or private delivery service rather than through the online portal when there are unusual, compelling, and extenuating circumstances which make filing the application through the online portal impossible. The applicant shall apply for permission to file the application form, supporting, or supplemental materials with the division in writing, and shall explain the circumstances why the applicant cannot submit the application through the online portal. A copy of the application forms for use in submitting application by mail is incorporated by reference and made a part of this rule as published by the Department of Social Services, Children's Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65102, at its website at <https://www.dss.mo.gov/provider-services/children/residential-program/background-checks.htm>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions. Applicants may download a copy of the forms. The applicant shall attach all documentation that may be necessary to complete the required application. If the division grants permission under this section, the applicant may submit the form with supporting materials by mail, by private delivery service, or in person to the offices of the division at Children's Division, Attn: Background Screening Team, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, Missouri 65102; or by email at CDScreen@dss.mo.gov.

(B) The application shall contain all of the following information:

1. The applicant's current, full legal name, residence address, mailing address, business address, telephone number, and email address. The applicant's mailing address and email addresses shall be the applicant's address of record for purposes of this regulation;

2. The applicant's date of birth and full Social Security number;

3. Any other names or aliases that the applicant has used or

been known by during the five- (5-) year period preceding the application;

4. Any other residence address, mailing address, county and state of residence, business address, telephone number, and email address that the applicant has had during the five- (5-) year period preceding the application;

5. Whether the applicant is registered, or is required to be registered, on a state sex offender registry or repository or in the National Sex Offender Registry. If the applicant is so registered or required to be registered, the applicant shall provide the following additional information:

A. The national, federal, state, or local jurisdiction in which the applicant is registered or required to be registered;

B. The specific crime or offense for which the applicant is registered or required to be registered including:

(I) The date or approximate date that the crime or offense was committed;

(II) The statute or section number of the crime or offense;

(III) The name and address of the court where the case was adjudicated;

(IV) The case number; and

(V) The date of the plea, finding, judgment, or sentence;

6. Whether the applicant is listed as a perpetrator of child abuse or neglect under sections 210.109 to 210.183, RSMo, or any other finding of child abuse or neglect based on any other state's registry or database. In states where the official registry of substantiated findings of child abuse or neglect are made or kept by a county, this information must also be disclosed. If the applicant is listed, the applicant shall also provide:

A. The state or county registry or database in which the applicant is listed;

B. The specific finding(s) of the state or county agency and the conduct for which the applicant is listed, including:

(I) The date(s) of the conduct;

(II) The date the applicant was listed;

(III) The name and address of the state or local government entity that maintains the list;

7. Whether the applicant has ever been found guilty of or pled guilty or *nolo contendere* to any crime or offense listed in section 210.493.11(5), RSMo. If the applicant has ever been found guilty of or pled guilty or *nolo contendere* to any such crime or offense, the applicant shall also provide—

A. The national, federal, state, or local jurisdiction where the applicant was found guilty of or pled guilty or *nolo contendere*;

B. The specific crime or offense for which the applicant is registered or required to be registered, including:

(I) The date or approximate date that the crime or offense was committed;

(II) The statute or section number of the crime or offense;

(III) The name and address of the court where the case was adjudicated;

(IV) The case number; and

(V) The date of the plea, finding, judgment, or sentence;

8. Whether the applicant consents to the division notifying the LRCF, LERCF, or Child Placing Agency of its decision on eligibility or ineligibility and/or sending a copy of its eligibility or ineligibility finding to the LRCF, LERCF, or Child Placing Agency;

9. Whether the person is requesting a response and notice of final decision by first-class mail or by email;

10. The name and address of any LRCF, LERCF, or Child Placing Agency that the applicant wishes the division to send a finding of eligibility or ineligibility to upon the completion of the background check process;

11. A fully completed and signed MOVECHS Waiver Agreement and Statement (SHP-981G) form. The completed and signed waiver form must be submitted with the application;

12. Acknowledgement and certification by the applicant, under penalty of perjury that all submitted information is true, accurate,

and complete to the best of the applicant's knowledge; and the applicant understands that a knowing violation of section 210.493, RSMo, may constitute a criminal offense and knowingly making a materially false statement in connection with a background check shall render the applicant ineligible;

13. Any other information and documents that the applicant wishes the division to consider in making its decision about eligibility;

14. An explanation of why the applicant is unable to provide any of the information that must be provided to support the application.

(C) The applicant shall register with the Family Care Safety Registry and execute any documents necessary for the division to access the applicant's results in the Family Care Safety Registry.

(D) The applicant shall execute any authorizations necessary to obtain information from state, local, and federal registries.

(E) The applicant shall submit fingerprint cards and any required fees to the Missouri State Highway Patrol's central repository and follow all of the Missouri State Highway Patrol's procedures for requesting a fingerprint-based criminal background check. The applicant shall further execute any documents and consents necessary for the Missouri State Highway Patrol to complete the fingerprint-based criminal background check and to notify the division of any criminal history record, or lack of criminal history record information discovered on the applicant as required by law.

(F) The applicant must submit a completed MOVECHS Waiver Agreement and Statement (SHP-981G) to the division with the application form to the division before reporting to be fingerprinted.

(G) The application will not be complete until the division receives a fully completed application form, MOVECHS Waiver Agreement and Statement (SHP-981G) and the results of the fingerprint-based criminal background check from the Missouri State Highway Patrol, and the applicant has registered for the Family Care Safety Registry and executed any authorizations necessary to obtain information from any registries.

(H) Upon receipt of a complete application, and MOVECHS Waiver Agreement and Statement (SHP-981G), and consideration of the application, the division will notify the applicant of eligibility or ineligibility based on the background check by mailing or emailing a notice to the applicant's address of record, and send a copy to the LRCF, LERCF, or Child Placing Agency as indicated on the application.

1. The notice will indicate whether the applicant is eligible or ineligible for employment or presence at the LRCF, LERCF, or Child Placing Agency.

2. The notice will advise the applicant of the applicant's right to request administrative review and appeal the decision and the process for requesting administrative review or appeal.

3. The notice will advise the applicant of the applicant's responsibility to notify the division, LRCF, LERCF, or Child Placing Agency of any event which would impact the applicant's eligibility as provided in section 210.493, RSMo, and this regulation.

4. The notice will advise the applicant that the finding of eligibility or ineligibility was based on a background check of records through the date of the notice and for the particular LRCF, LERCF, or Child Placing Agency for which the background check was requested.

(I) If the division finds the applicant eligible, the division shall forward a copy of the finding to any LRCF, LERCF, or Child Placing Agency indicated by the applicant. If the division finds the applicant ineligible, the division shall not send a copy of the notice to any indicated LRCF, LERCF, or Child Placing Agency, until the division determines the applicant has exhausted the applicant's administrative remedies and the division has received a written consent from the applicant authorizing the division to disclose such information.

(7) Fees and Costs. The applicant, LRCF, LERCF, or Child Placing Agency shall be responsible for the payment of any and all required fees for processing the application, including any fees for the fingerprint-based background check and the Family Care Safety Registry.

(8) Notice and Communications. The division will send all communications and notices pertaining to an application and request for administrative review or appeal by first-class mail unless the applicant or entity requesting administrative review or appeal affirmatively notifies the division, in writing, that the applicant or person would like to receive communications by email and provides the division with the email address. It is the responsibility of the applicant or person to notify the division of any change in the applicant's or person's contact information. All notices shall be sent to the address or email address of record, and all correspondence sent to that address shall be deemed received and sufficient service for all purposes.

(9) The division shall not reveal any information pertaining to any disqualifying crime, offense, or other related information regarding the applicant to the LRCF, LERCF, or Child Placing Agency except as may be otherwise required by law.

(10) Continuing Obligation to Notify and Expiration of Determination.

(A) The division's decision of eligibility or ineligibility shall be based upon the information that the division receives through the background check process, and any additional information that may be made available to the division during administrative review and appeal.

(B) The division's finding is only valid through the date of the decision and only for the LRCF, LERCF, or Child Placing Agency indicated by the applicant on the application. The applicant may designate more than one LRCF, LERCF, or Child Placing Agency on a single application.

(C) The applicant shall be responsible for notifying the division of any change in circumstance which may render the applicant ineligible and shall submit a new application based upon the subsequent information.

(D) The applicant's fingerprint-based background check is valid for five (5) years from the date the fingerprints were taken, or until there is any change in the circumstances of the applicant which would render the applicant ineligible under the statute, whichever occurs first. It is the responsibility of the applicant to track the expiration date of the fingerprints and submit an application for a new background check.

(E) The division's finding automatically expires thirty (30) days from the date of the division's decision. It is the responsibility of the applicant to submit a new application for a new determination and fingerprint-based criminal background check following the procedures specified in this regulation.

(11) In determining whether an applicant is eligible or ineligible under section 210.493, RSMo, and this regulation, the division shall not consider the manner, content or the religious curriculum of the program, or ministry of a school or of a facility sponsored by a church or religious organization.

(12) Administrative Review and Appeal Procedure.

(A) The decision of the division shall be final unless the applicant or person who is aggrieved by a decision of the division under this regulation files a request for administrative review of the decision within fourteen (14) days of the mailing of the decision. Any request for administrative review that the division receives after the deadline is untimely and will not be subject to further administrative review or appeal.

(B) Administrative Review.

1. A request for administrative review shall be made in writing, either on a form provided by the division or by letter. The division will publish a form on its website. The request for administrative review shall—

A. Include the name, address, telephone number, and email address of the person requesting administrative review;

B. State whether the division should provide the response and notice of final decision by first-class mail or by email;

C. Identify the decision the requestor wishes to be reviewed, the specific reasons the requestor believes the division's decision is erroneous, and why the requestor is aggrieved by the decision;

D. Include copies of any relevant documents, materials, or information that the requestor wishes to submit in support of the administrative review request; and

E. State whether the person requests that the review be considered on the basis of the materials submitted or whether the person requests a conference. If the person requests a review conference, then the person shall also provide dates and times within the next thirty (30) days when the person may be available and the reasons why the administrative review cannot be processed on the basis of the materials presented.

2. The request for administrative review shall be submitted to the division by certified first-class mail through the United States Postal Service return receipt requested to the address specified on the notice of ineligibility or submitted electronically by email to the division to the email address specified in the notice of ineligibility.

3. The administrative review shall be conducted and decided based upon the written materials submitted to the division and any information and materials presented at a review conference. The division will provide a review conference upon written request.

4. The review conference may take place by telephone conference call, video conference, or in-person meeting.

5. The administrative review process shall be informal. The rules of evidence shall not apply. There is no right to conduct discovery. There shall be no right to compel the production of witnesses or evidence by subpoena or otherwise.

6. The administrative review shall be conducted by an individual designated by the director of the department or the division, who may be an employee of the division or the department. However, the individual shall not have been involved in making the decision which is subject to review.

7. The individual conducting the administrative review shall conduct the administrative review and render a written decision no later than thirty (30) days from the date that the division received the request for administrative review.

8. The decision upon administrative review shall be the final decision of the department as to any person that is not an applicant.

(C) Appeal.

1. Any applicant who is aggrieved by a decision upon administrative review shall have the right to appeal the decision to the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services. The applicant shall submit a notice of appeal to the division, within fourteen (14) days of the date of the administrative review decision, by certified first-class mail through the United States Postal Service return receipt requested to the address specified on the notice of ineligibility or submitted electronically by email to the division to the email address specified in the notice of decision upon administrative review. The division must receive the notice of appeal within fourteen (14) days of the date of the decision. Any notice of appeal that is received after the deadline is untimely and the appeal will be dismissed. Completion of the administrative review process is a condition precedent to the applicant's right to appeal.

2. The parties to the appeal shall be the division and the applicant.

3. All appeals shall be processed and decided by a hearing officer from the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services. The decision of the hearing officer shall be the final decision of the department.

4. The following evidence shall be admitted and considered by the hearing officer on appeal as provided in this section without further foundation:

A. A copy of the application form and all supporting documentation;

B. A copy of the record of the court establishing that the applicant pled guilty or *nolo contendere* or has been found guilty of

a crime or offense listed in 210.493, RSMo;

C. A copy of a letter or official communication from the applicable state, county, or local government agency stating that the applicant is listed as a perpetrator of child abuse or neglect in the state, county, or local government agency's registry or database of perpetrators of child abuse or neglect;

D. A copy of the report of the fingerprint-based background check conducted pursuant to section (3) of this regulation; and

E. A copy of a letter, official communication, or a print out of the applicable page of the National Sex Offender Registry or state sex offender registry.

5. The applicant or division may object to the hearing officer considering the information outlined in this regulation. The burden shall be on the objecting party to establish that the items of evidence shall not be considered by the hearing officer.

6. The hearings held under this section shall be informal, but they shall be held on the record and testimony will be adduced under oath. The rules of evidence do not apply. The applicant may be represented by an attorney.

7. Upon written request the division will provide the applicant with a copy of the fingerprint-based state and FBI background check.

8. The hearing shall not be an opportunity to collaterally attack or re-litigate the validity of the underlying plea of guilt, plea of *nolo contendere*, or the underlying finding of child abuse, neglect, or maltreatment by the applicable state or local agency, or the accuracy of information in the federal, state, or local registry or repository.

9. The hearing shall be based upon the written submissions of the parties unless the applicant or the division request a hearing by video or teleconference. The hearing officer may hold an in-person hearing only upon a showing that an in-person hearing is necessary to accommodate a special need of an applicant or the division.

10. The hearing officer shall issue a decision in writing, which will be sent by first-class mail (or by email at the election of the applicant) to the applicant at the applicant's address of record. If the applicant is represented by an attorney the decision will be sent to the applicant's attorney. The written decision of the hearing officer shall be the final decision of the department.

(D) Judicial Review.

1. Any applicant aggrieved by the final decision of the department after appeal may seek judicial review as provided in section 536.150, RSMo.

2. Any person who is not an applicant who is aggrieved by the final decision of the department after administrative review may seek judicial review as provided in section 536.150, RSMo.

Title 13—DEPARTMENT OF SOCIAL SERVICES **Division 35—Children's Division** **Chapter 71—Rules for Residential Treatment Agencies** **for Children and Youth**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children's Division, under sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division amends a rule as follows:

13 CSR 35-71.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1974-1977). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Children's Division received nine (9) comments on the proposed amendment.

COMMENT #1: Rob Tillman, Special Counsel for the Department of Social Services, in response to feedback from the Joint Committee for Administrative Rules (JCAR), commented that in paragraph (2)(C)5., the rule references a "civil rights agreement." This is the current language, but I think this should describe what that is or where it can be found.

RESPONSE AND EXPLANATION OF CHANGE: The civil rights agreement is included in the application forms packet that is incorporated by reference in paragraph (2)(A)1. Completion of the civil rights agreement has been a routine part of the licensure process for several years. All Licensed Residential Care Facilities (LRCFs) operating in Missouri have already executed the civil rights agreement as a part of licensure. The division is adding the sentence "This form is included with the application forms referenced in section (2)(A)1." to the end of paragraph (2)(C)5.

COMMENT #2: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subsection (1)(A) should be amended for clarity. "Any person who develops, establishes, maintains or operates a residential treatment agency for children and youth, other than persons exempt from licensure requirements under section 210.516 RSMo, must apply for and receive a license from the division prior to accepting any child for care." should replace "Any person who desires to develop, establish, maintain or operate, or both, a residential treatment agency for children and youth, except for those persons exempt from licensing pursuant to section 210.516, RSMo, must file an application for licensure form with the division and must receive a license prior to accepting any child for care."

RESPONSE AND EXPLANATION OF CHANGE: DSS has adopted the proposed language to improve the clarity of the passage.

COMMENT #3: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (2)(B)4.: should be redrafted for style and clarity. In addition, the department believes it must consider whether articles of organization should be added to and treated similarly as articles of incorporation in paragraph (2)(B)4. and whether it must consider proposing to amend 13 CSR 35-71.040 for the same reason.

RESPONSE AND EXPLANATION OF CHANGE: The department has amended the language to improve the clarity of the passage and added "or organization" to paragraph (2)(C)8.

COMMENT #4: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (2)(C)8.: the department believes it must consider whether articles of organization should be added to and treated similarly as articles of incorporation in paragraph (2)(B)4.

RESPONSE AND EXPLANATION OF CHANGE: DSS has added "or organization" to paragraph (2)(C)8. for consistency.

COMMENT #5: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (2)(C)23. should clarify to which "staff" the medical examination requirement applies.

RESPONSE AND EXPLANATION OF CHANGE: After due consideration, DSS has concluded the staff "medical examination" verification requirements are unnecessary; the language within prior proposed paragraphs (2)(C)23. and (6)(C)1. and subsection (6)(D) will be deleted and the subsequent items renumbered.

COMMENT #6: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (2)(C)24.: the department believes language specifying that persons required to undergo background checks who continue to reside outside of Missouri must undergo annual out-of-state checks should be restored to ensure the safety of children and to ensure consistency with 13 CSR 35-71.045(1)(D) ("After the individual completes the background

check, the LRCF shall require all officers, managers, contractors, volunteers with access to children, employees, other support staff, and owners of the LRCF who will have access to the facilities of the LRCF, and who reside outside of the state of Missouri, to successfully complete an annual background screening which shall consist of a check of the child abuse and neglect registry and a criminal background check of the state or jurisdiction in which the individual resides. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo to immediately notify the LRCF if they are listed in a state or local government registry as a perpetrator or child abuse or neglect, or if they arrested or charged with any crime listed in section 210.493 RSMo.”).

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and modified the text of paragraph (6)(C)6. to give effect to the suggestion.

COMMENT #7: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (2)(C)34. should be removed as the term “visiting resources” and the requirement have slipped into disuse. Subsequent paragraphs should be renumbered.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has adopted the suggestion.

COMMENT #8: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subsection (6)(A) should be redrafted to say that the licensure renewal packet should be sent to CDaskRPU@dss.mo.gov email address (or postal mailing address, if applicable) rather than the licensing consultant. Individual consultants may transfer positions or leave the department and facilities may not be aware of such information.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has adopted the suggestion.

COMMENT #9: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (6)(C)6.: the department believes language specifying that persons required to undergo background checks who continue to reside outside of Missouri must undergo annual out-of-state checks should be restored to ensure the safety of children and to ensure consistency with 13 CSR 35-71.045(1)(D) (quoted above).

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and modified the text of the (6)(C)6. accordingly.

13 CSR 35-71.020 Basic Residential Treatment for Children and Youth Core Requirements (Applicable To All Agencies)—Basis for Licensure and Licensing Procedures

(1) Licensing Authority.

(A) Any person who develops, establishes, maintains, or operates a residential treatment agency for children and youth, other than persons exempt from licensure requirements under section 210.516, RSMo, must apply for and receive a license from the division prior to accepting any child for care.

(B) Before a license may be granted, an agency must be in compliance with sections 210.481–210.536, RSMo, sections 210.1250–210.1286, RSMo, and these rules.

(2) Application Procedures.

(A) To apply for a license to operate a Licensed Residential Care Facility (LRCF) in Missouri the person, or the persons legally authorized designee, shall file an application with the division on forms provided by the division.

1. The application forms are published on the division’s website and are incorporated by reference and made a part of this rule as published by the Department of Social Services, Children’s Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO

65102, and available at: <https://www.dss.mo.gov/provider-services/children/residential-program/licensed.htm>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions. The person shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The person shall submit the form with supplementary materials to the division by email at the following email address: CDaskRPU@dss.mo.gov.

2. The application form shall be signed by the person or the person’s legally authorized designee. The division will accept e-signatures.

(B) The application shall contain the following information:

1. The name, street address, mailing address, fax number, and phone number of the residential care facility;

2. The name, street address, mailing address, email address, and phone number of the director, owner, and operator of the LRCF;

3. The name, street address, mailing address, email address, phone number, and job title of the individual or individuals who are designated to submit the application on behalf of the residential care facility. This individual shall be an individual who is legally authorized to act on behalf of the residential care facility and to legally bind the residential care facility to the statements made and information provided in support of the application;

4. The name and description of the person operating the residential care facility, including a statement as to whether the person operating the residential care facility is a firm, corporation, benevolent association, partnership, association, agency, or an incorporated or unincorporated organization, regardless of the name used. If the owner or operator of the residential care facility is incorporated, a corporation shall state the type of corporation, the state in which the corporation was incorporated, and the date of incorporation;

5. The name and address of the sponsoring organization of the residential care facility, if applicable;

6. The name and address of every school attended by, or to be attended by, the children served by the residential care facility;

7. A certification that officers, managers, contractors, volunteers with access to children, employees, and other support staff of the residential care facility, and owners who will have access to the facilities have, or will have, completed background checks and have been found eligible as required in section 210.493, RSMo, and 13 CSR 35-71.015.

(C) The residential care facility shall submit the additional documentation and information in support of the application as provided in this subsection. This information may be submitted on a form or forms provided by the division, or it may be submitted separately as attachment(s) to the application.

1. Local health department inspection certificates.

A. The residential care facility shall successfully complete and obtain any and all local health department inspection certificates required in the jurisdiction in which the facility operates. If the residential care facility operates in more than one (1) county or local jurisdiction, then the residential care facility shall obtain the required certificates for each facility in each location.

B. The residential care facility shall submit a copy of all local health department inspection certificates with the application, and shall indicate the date of the inspection and the date that each certificate expires, if any.

C. If there is no local or county government health department in which the residential care facility is located, or if the local or county health department will not perform a health inspection, the residential care facility shall request that decision in writing and submit that information with the application.

D. If the residential care facility is unable, after exercising diligent efforts, and due to no fault of its own, to obtain a local inspection certificate, then the residential care facility shall submit a statement describing the efforts made to obtain the certificate(s) and the reason why the residential care facility was unable to obtain the certificate. The residential care facility shall attach copies of any correspondence

from any state, county, or local jurisdictions declining to conduct the inspection.

2. Proof that medical records are maintained for each child. The division will accept copies of the LRCF's administrative policy regarding the maintenance of medical records as *prima facie* proof that the LRCF is maintaining medical records for purposes of submitting an application. However, proof that the LRCF is maintaining medical records on each child will be the subject of verification and monitoring. The LRCF shall provide the division access to the facility upon request to inspect the medical records maintained by the LRCF on the children served by the LRCF in order to verify that the medical records are being kept.

3. Evidence of compliance with local building and zoning requirements.

4. A floor plan of the proposed site in which the specific use of each room is identified.

5. A signed and dated copy of the civil rights agreement. This form is included with the application forms referenced in paragraph (2)(A)1.

6. A chart depicting the agency's organizational structure and lines of supervision.

7. Written policies and procedures established by the board of directors which clearly set forth the authority and the responsibilities delegated to the executive director.

8. A copy of the articles of incorporation or organization, bylaws, and board roster, including the mailing address and place of employment of each member, and a list of board officers.

9. A proposed budget for a period of not less than one (1) year, including sources of income and/or fund raising methods.

10. Verification of availability of not less than three (3) months' operating capital.

11. A copy of the residential care facility's written intake policy.

12. Written identification of specific program models or designs which shall include the methods of care and treatment to be provided.

13. The job title, job description, and minimum qualifications for all staff.

14. A projected staffing plan for the anticipated capacity.

15. Written child abuse and neglect reporting policy.

16. Written personnel practices, including staff training and orientation.

17. Written discipline policy.

18. Written visitation policy.

19. Written health care policy.

20. Written restraint policy utilizing a recognized and approved physical restraint program.

21. A needs assessment conducted and submitted as evidence of need for the type and scope of program proposed. This written assessment shall include, but is not limited to:

A. An identification and survey of potential referral sources, existing resources, and unmet community needs;

B. A business plan that details the agency's proposed venture explaining the vision, mission, current status, expected needs, defined markets, and projected results;

C. A description of how treatment will be provided and documented and how the proposed operating site meets therapeutic needs;

D. A description of how the agency will be financed and how fiscal viability will be maintained; and

E. A description of the results of a meeting planned and hosted by the agency with key community participants with the intent of enhancing communication, gathering information for the needs assessment, addressing interaction with community resources, and addressing community questions and comments regarding the proposed residential treatment agency for children and youth.

22. Evidence of compliance with fire safety requirements of the State Fire Marshal.

23. A certification that all individuals who are required to complete a background check and be found eligible for employment or presence at the LRCF as provided in section 210.493, RSMo, and 13 CSR 35-71.015.

24. Verification of the education, licensing credentials, and experience for all professional staff.

25. A copy of the resume for all professional and administrative staff.

26. Written description of the recreational program, and the manner in which staff are qualified and prepared to create, organize, and supervise them.

27. A copy of the annual written staff training plan.

28. A copy of the personnel manual for the agency.

29. A copy of the program manual for the agency.

30. For any agency operating a swimming pool on grounds, documentation that the pool is operated and maintained in accordance with all applicable ordinances and/or state guidelines.

31. Documentation that each operating site's food service is in compliance with the requirements of the Department of Health and Senior Services and/or any local applicable ordinances.

32. Written volunteer policies.

33. Written confidentiality policy.

34. Written policy for the use of locked isolation.

35. Written instructions for fire, severe weather, and other emergency evacuations.

36. Written description of the agency's religious requirements and practices.

37. Written policy governing the use of medications, including psychotropic medications.

38. A copy of any newsletter, brochure, or flyer used by the agency for fundraising or marketing purposes.

39. Documentation of insurance for the agency for professional and commercial liability, worker's compensation insurance, fire and disaster insurance, and agency vehicle insurance.

(D) Upon receipt of the application form and supporting documentation, the division will send a request to the State Fire Marshal to conduct a fire and safety inspection and provide the LRCF and the division with a copy of the approved fire and safety certificate.

(E) The application will be complete when the residential care facility submits a completed application with all of the required supporting documents and information to include all required inspection certificates.

(3) Licensing Assessment.

(A) When the application is complete the division will conduct a thorough assessment of the residential care facility to determine whether the residential care facility meets all of the requirements for licensure in compliance with the licensing law and applicable rules.

(B) If an applicant for licensure is determined not to be in compliance with the licensing law and applicable rules, or if the division issues a provisional license and the residential care facility does not achieve full compliance within six (6) months of the date of the issuance of the provisional license, the application will be denied. A new application for licensure must be filed if the agency desires to pursue licensure.

(4) The License.

(F) An LRCF for children and youth may request a temporary variance from one (1) or more of the licensing requirements for a specified period of time on a form prescribed by the division that is approved or denied by the division. Approval may be granted by the division only in unusual situations when the division determines that the variance will not negatively impact child health and safety and is not under the purview of another regulatory entity. Examples may include, but are not limited to, time limited deviations in licensed capacity and age range. No variance will be granted for any licensing requirements which involve the health, safety, and welfare of children. Examples include, but are not limited to, compliance with fire

and sanitary codes, food safety, building occupancy requirements, and other requirements imposed by law. In the event the licensed residential treatment agency for children and youth does not agree with the decision of the division, it may request administrative review pursuant to 13 CSR 35-71.030.

(5) License Amendment.

(A) An LRCF shall file an application for amendment with the division on a form prescribed by the division at least sixty (60) days prior to—

1. Relocation and/or address change;
2. Change in the name of the LRCF;
3. Change in the capacity, gender served, and/or age range of children; or
4. Any major change in the program.

(6) Licensing Renewal.

(A) The LRCF shall complete and return the application for license renewal to the division at least ninety (90) days prior to the expiration of the current license. The LRCF shall utilize the forms indicated in paragraph (2)(A)1. of this regulation to initiate the license renewal process. The LRCF shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The LRCF shall submit the form with supplementary materials by email to CDaskRPU@dss.mo.gov. The application form shall be signed by the director of the LRCF or the director's legally authorized designee. The division will accept e-signatures.

(B) The division shall initiate action on the completed application packet prior to the expiration of the existing licensure period.

(C) In addition to the completed application form, the residential care facility shall submit the following documents with the application for license renewal:

1. A current board roster, including the mailing address and place of employment of each member and a list of board officers;
2. A summary of any significant changes to programs and copies of any resulting policies or policy changes;
3. A copy of a current organizational chart;
4. Certification that all individuals who are required to submit to a background check have completed their background checks and have been found eligible by the division for employment or presence at the LRCF as provided in section 210.493, RSMo, and 13 CSR 35-71.015;
5. Annual results of a check of the family care safety registry for all staff, as well as interns, volunteers, and contractors. For individuals who reside outside of Missouri who are subject to the background check requirements provided for in section 210.493, RSMo, the LRCF shall require all officers, managers, contractors, volunteers with access to children, employees, other support staff, and owners of the LRCF who will have access to the facilities of the LRCF to successfully complete an annual background screening which shall consist of a check of the child abuse and neglect registry and a criminal background check of the state or jurisdiction in which the individual resides. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo, to immediately notify the LRCF if they are listed in a state or local government registry as a perpetrator of child abuse or neglect, or if they were arrested or charged with any crime listed in section 210.493, RSMo;
6. Evidence of current compliance with the fire and safety requirements of the State Fire Marshal;
7. A record of monthly drills for fire and emergency evacuations which are held at different times of the day and night;
8. Documentation that each operating site's water supply and sewage disposal system is currently in compliance with the requirements of the Department of Health and Senior Services if not an approved public source;
9. A copy of the most recent financial audit and/or financial review;

10. A copy of the annual written staff training plan;

11. Documentation that each operating site food service is currently in compliance with requirements of the Department of Health and Senior Services or any local applicable ordinance;

12. A copy of the current personnel and/or program manual for the agency if there have been changes since last submitted to the licensing unit;

13. For any agency operating a swimming pool on grounds, documentation that the pool is operated and maintained in accordance with all applicable local ordinances and/or state guidelines;

14. A copy of the resume of all administrative and professional staff, if not previously submitted to the licensing unit;

15. Documentation of insurance for the agency for professional liability and commercial liability, worker's compensation insurance, fire and disaster insurance, and agency vehicle insurance; and

16. Documentation of Form 990 for all non-profit agencies and Internal Revenue Service return for for-profit agencies and self-disclosure of tax liabilities, including but not limited to, all employee withholding taxes.

(D) Division staff may review the results of employee background screenings, along with family care safety registry during routine record reviews.

(E) Upon determination of compliance with the licensing law and applicable rules, the director shall issue a license for a period not to exceed two (2) years.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 71—Rules for Residential Treatment Agencies
for Children and Youth

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children's Division, under sections 207.020, 210.506, 210.526, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division amends a rule as follows:

13 CSR 35-71.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1977-1979). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Children's Division received one (1) comment on the proposed amendment.

COMMENT #1: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (2)(A)2.: the department believes paragraph 2. ("The division determines that one (1) or more of the criteria set out in sections 210.496, and 210.1250 through 210.1286, RSMo, and/or subsection (1)(A) of this rule may exist;") may require redrafting to either specify which criteria in sections 210.1250 through 210.1286, RSMo, apply to LRCF suspensions or to clarify that only failures to comply with applicable provisions in sections 210.1250 through 210.1286, RSMo, would satisfy criteria for suspension.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has redrafted paragraph (2)(A)2. to specify that only a violation of sections 210.1250 through 210.1286, RSMo, would provide a basis to suspend the license of an LRCF.

13 CSR 35-71.030 Hearings and Judicial Review

(2) License Suspension.

(A) The division shall have the authority to suspend the license of an agency when—

1. The division determines that the suspension of the license is necessary to protect the health, safety, and welfare of children who are or may be placed at the operating site; and

2. The division determines that noncompliance with one (1) or more of the criteria set out in sections 210.496 and 210.1250–210.1286, RSMo, and/or subsection (1)(A) of this rule may exist; and

3. The division has reasonable cause to believe that the agency will be able to develop and effectively implement a corrective action plan to resolve the concerns which gave rise to the suspension of the license.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—Rules for Residential Treatment Agencies
for Children and Youth**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children’s Division, under sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division amends a rule as follows:

13 CSR 35-71.045 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1980-1982). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Children’s Division received thirteen (13) comments on the proposed amendment.

COMMENT #1: Rob Tillman, Special Counsel for the Department of Social Services, in response to feedback from the Joint Committee for Administrative Rules (JCAR), commented that in section (3) – this says that “staff records” shall be maintained. If that is the same as personnel records, that should be the same wording, I think. If it isn’t, you don’t define staff records anywhere.

RESPONSE AND EXPLANATION OF CHANGE: The term “staff” was defined to “include any individual who works for or performs services, including professional services, for the ... LRCF ..., whether compensated or not. Staff can be employees and employees can be staff.” Prompt access to staff records becomes important when the Children’s Division is conducting oversight and time sensitive child abuse/neglect investigations. The word “staff” before “records” creates confusion as to whether those are separate types of records or if they are only for staff members and not the other listed personnel. The word “staff” is being removed from section (3).

COMMENT #2: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that in subsection (1)(H) the department believes the documentation requirements (the date, person making the contact, and the content of the contact) previously found in subsection (1)(H) should be restored to prevent the requirement from becoming a perfunctory checkmark in the record.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees contact documentation would perform little function without the change and has adopted the suggestion.

COMMENT #3: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subsection (2)(A) should be amended, in part, to say that a medical examination shall

be obtained to verify that all staff, employees, interns, volunteers, or contracted personnel are free of symptoms of communicable disease or other evidence of ill health that could pose a threat to children before beginning their employment or service.

RESPONSE AND EXPLANATION OF CHANGE: After due consideration, DSS has concluded the staff “medical examination” verification requirements in subsection (2)(A) of this rule are sufficient and the verification provisions from prior proposed 13 CSR 35-71.020(2)(C)23., 13 CSR 35-71.020(6)(C)1., 13 CSR 35-71.020(6)(D) will be removed because they would impose an unnecessary administrative burden on LRCFs.

COMMENT #4: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (3)(A)2. should be amended to substitute “character or professional” for “character and professional” to avoid any potential confusion with the applicable provisions in 13 CSR 35-71.030 and 13 CSR 35-71.045(1)(G).

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees the suggestion would avoid unnecessary confusion and has adopted the suggestion.

COMMENT #5: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that in paragraph (3)(A)3. the department believes paragraph (3)(A)3. (“Verification of employer references for the past five (5) years and previous employment in child care settings;”) should be removed and subsequent paragraphs should be renumbered because the requirement is unnecessary.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees adoption of the suggestion would avoid an unnecessary administrative burden and has adopted the change.

COMMENT #6: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that in paragraph (3)(A)6. the department believes paragraph (3)(A)6. may require revision to ensure the safety of children and to ensure consistency with 13 CSR 35-71.045(1)(D) (quoted above).

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has adopted the suggestion in this rule and in 13 CSR 35-71.020.

COMMENT #7: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that in paragraph (3)(A)12. the department believes “and critical incident reporting policies” should be inserted in paragraph (3)(A)12. to ensure consistency with 13 CSR 35-71.045(3)(B)7.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees on the importance of critical incident reporting policies and has adopted the suggestion to ensure consistency.

COMMENT #8: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that in paragraph (3)(B)2. the department believes the requirements of paragraph (3)(B)2. are addressed elsewhere and the language should be removed.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees adoption of the suggestion would avoid an unnecessary administrative burden and has adopted the change.

COMMENT #9: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that in paragraph (3)(B)3. the department believes paragraph (3)(B)3. may need to be amended to ensure the safety of children and to ensure consistency with 13 CSR 35-71.045(1)(D) (quoted above).

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has adopted the suggestion in this rule and in 13 CSR 35-71.020.

COMMENT #10: Erica Signars, Special Assistant Professional for

the Department of Social Services, commented that section (4) was not published with the emergency regulation because it was not amended. To avoid confusion, the department is commenting that it should read: “(4) Job Descriptions. An agency shall establish a written job description for each position, which shall be made available to staff at the time of employment. Each description shall describe the duties and responsibilities of the position; address supervision, required knowledge, skills and abilities, minimum experience, educational requirements; and shall include examples of work performed. Each employee shall be given a copy of the job description for his/her position. A copy of the job description shall be signed and dated by the employee and placed in his/her file.”

RESPONSE: No changes necessary.

COMMENT #11: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that section (5) was partially published with the emergency regulation because it was only partially amended. Because some interpreted the partial publication as a potential deletion, the department is commenting on what it believes the final rule should say. 13 CSR 35-71.045(5) should read: “(5) Staff Orientation. Immediately before or within one (1) week following appointment, an employee, intern, volunteer, and any contracted personnel shall be oriented to the agency’s programs, practices, and the duties and expectations of his/her position. The orientation program shall include, but not be limited to:

- (A) Agency philosophy and history;
- (B) Agency policies;
- (C) Agency staff roles;
- (D) The family’s role in the child’s care and the worker’s role and responsibilities in relation to the family;
- (E) Complete description of the agency’s program model;
- (F) Health and safety procedures, including the use of universal health care precautions;
- (G) Crisis intervention procedures;
- (H) Record keeping requirements;
- (I) Cultural diversity;
- (J) Separation and attachment issues;
- (K) Confidentiality;
- (L) Substance abuse;
- (M) Recognition of suicidal tendencies and appropriate intervention;
- (N) The procedure for identifying and reporting child abuse or neglect, or both, in accordance with sections 210.110 - 210.165, RSMo;
- (O) Agency recreation program philosophy, policy, procedures, rules, and expectations;
- (P) Legal rights of children and their families, including basic information on the constitutional rights of children and their families while children are in care and basic information on the Missouri juvenile justice system; and
- (Q) Procedures to follow in an emergency.”

RESPONSE: No changes necessary.

COMMENT #12: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that section (6) was not published with the emergency regulation because it was not amended. To avoid confusion, the department is commenting that it should read: “(6) Staff Training.

(A) An agency shall establish and submit to the licensing unit an annual written plan of training each year for all employees and contracted personnel.

1. Employees and contracted personnel shall have forty (40) hours of training during the first year of employment and forty (40) hours annually each subsequent year; and
2. Direct care staff and immediate supervisors must maintain certifications in a certified medication training program, crisis management, a current recognized and approved physical restraint program (where applicable), first aid, and cardio-pulmonary resuscita-

tion.

(B) All training must be documented on a training database/training log with the dates, location, subject, number of hours earned and person(s) who conducted the training.

(C) The training may include, but not be limited to, short-term courses, seminars, institutes, workshops, and in-service training provided on site by qualified professionals. Activities related to supervision of the staff member’s routine tasks shall not be considered training activities for the purpose of this rule.

(D) The training plan shall include, but not be limited to:

1. Developmental needs of children;
2. Child management techniques;
3. Basic group dynamics;
4. Appropriate discipline, crisis intervention, de-escalation techniques, and behavior management techniques;
5. The direct care and professional staff roles in the operating site;
6. Interpersonal communication;
7. Proper, safe methods, and techniques of physical restraint;
8. First aid and cardio pulmonary resuscitation training;
9. Medication training and/or certification;
10. Suicide prevention;
11. Legal rights of children and their families, including basic information on the constitutional rights of children and their families while children are in care and basic information on the Missouri juvenile justice system; and
12. Water safety for those agencies allowing water activities.”

RESPONSE: No changes necessary.

13 CSR 35-71.045 Personnel

(1) General Requirements.

(A) The Licensed Residential Care Facility (LRCF) shall have a written statement of personnel practices which are approved by the governing body and provided to all staff at the time of employment.

(B) The LRCF shall evaluate and investigate application information carefully to determine whether employment or service of an applicant with the LRCF is in the best interests of the children in care.

(C) All officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of such LRCF who will have access to the facilities of the LRCF shall submit to a background check and shall be found eligible for employment or presence at the LRCF as provided in section 210.493, RSMo, and 13 CSR 35-71.015 before commencing service or being afforded access to the facilities of the LRCF. These individuals shall notify the LRCF and the division of any change in circumstances which would render them ineligible for employment or presence at the LRCF. After the individual completes the background check, the LRCF shall further require all officers, managers, contractors, volunteers with access to children, employees, other support staff, and owners of the LRCF who will have access to the facilities of the LRCF to successfully complete an annual check of the Family Care Safety Registry. The LRCF shall maintain documentation of the Family Care Safety Registry checks in its personnel records.

(D) After the individual completes the background check, the LRCF shall require all officers, managers, contractors, volunteers with access to children, employees, other support staff, and owners of the LRCF who will have access to the facilities of the LRCF, and who reside outside of the state of Missouri, to successfully complete an annual background screening which shall consist of a check of the child abuse and neglect registry and a criminal background check of the state or jurisdiction in which the individual resides. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo, to immediately notify the LRCF if they are listed in a state or local government registry as a perpetrator of child abuse or neglect, or if they were arrested or charged with any

crime listed in section 210.493, RSMo.

(E) Any person who makes a materially false statement in connection with an application for licensure or relicensure as a LRCF shall be ineligible for employment or presence at the LRCF.

(F) Prior to the employment of any person for a position requiring credit hours, a degree, or both from an accredited college or university, a resume and an official college transcript, or a copy of the diploma, shall be on file at the LRCF. Any person employed in a position requiring general educational development certificate or high school diploma shall provide documentation of such within thirty (30) days of employment.

(G) An LRCF shall require the names of at least three (3) persons for each employee, volunteer, or staff person, who are unrelated to the individual, who can provide character references. At least two (2) of the three (3) persons shall be professional references from a previous employer, internship, or volunteer position. If the individual is a student then this requirement may be satisfied by providing the references from the individual's professor, guidance counselor, teacher, or academic advisor.

(H) The LRCF shall contact all references and maintain documentation of the reference checks in the LRCF's employee records. Documentation of the contact shall include the date, person making the contact, and the content of the contact.

(I) The LRCF shall require an annual driver record check for any staff, employee, intern, volunteer, or contract personnel who transport residents. No individual with a suspended or revoked driver's license or record of driving while under the influence of alcohol or any other intoxicating substance within the last five (5) years shall transport residents.

(2) Health Verification.

(A) All staff, employees, interns, volunteers, and contracted personnel shall be free of symptoms of communicable disease or other evidence of ill health which poses a threat to children.

(B) Staff, interns, volunteers, and contracted personnel shall be free of any conditions which would adversely affect their ability to care for or pose a threat to children.

(C) If the division has reason to question the capabilities of any individual working directly with children served by the LRCF, the division may require the individual to submit to a medical examination and obtain a report of an appropriate medical professional that the individual is medically fit to perform the services for the LRCF without reasonable risk to the children.

(3) Personnel Records. The LRCF shall maintain personnel records for each staff member, employee, intern, volunteer, and contracted employee as indicated below. The LRCF shall maintain the records on site and shall keep the records for at least five (5) years following the date of separation from the LRCF.

(A) For staff members and employees, the personnel record shall include—

1. Verification of education and experience, and a copy of professional license, if applicable;
2. Verification of the names of three (3) persons, unrelated to the staff member, who can provide character or professional references;
3. A copy of the job description signed and dated by the employee;
4. Results of annual checks of the family care safety registry;
5. Documentation that the individual has completed the background checks and that the division has found the individual eligible for employment or presence at the LRCF pursuant to section 210.493, RSMo, and 13 CSR 35-71.015;
6. Documentation of annual background checks for individual staff members who reside outside of Missouri that are subject to the background check requirements provided for in section 210.493, RSMo, which shall include a check of the child abuse and neglect registry and a criminal background check of the state or jurisdiction

in which the individual resides. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo, to immediately notify the LRCF if they are listed in a state or local government registry as a perpetrator of child abuse or neglect, or if they were arrested or charged with any crime listed in section 210.493, RSMo;

7. The date of employment, date of separation, reason(s) for separation;

8. Copies of annual performance evaluations;

9. Results of an annual driver record check for any employee, intern, volunteer, and any contracted personnel who transport residents;

10. A signed and dated copy of the confidentiality statement;

11. A signed and dated copy of the discipline policy;

12. A signed and dated copy of the mandated child abuse/neglect reporting and critical incident reporting policies;

13. A signed and dated copy of an acknowledgement of receipt of program and personnel policies and manuals;

14. A signed and dated copy of the acknowledgment of completed agency orientation;

15. Documentation that the staff member has successfully completed all training required for the successful performance of the individual's duties;

16. Documentation of current first aid/cardiopulmonary resuscitation training and certification; and

17. Documentation of current medical aid certification, when applicable.

(B) For interns, volunteers, and contracted employees who have direct contact with children, the personnel record shall include—

1. Copy of professional credentials, if applicable;
2. Results of annual checks of the family care safety registry and documentation that the individual has completed the background check process and been found eligible for service as provided in section 210.493, RSMo, and 13 CSR 35-71.015;
3. Documentation of annual background checks for interns, volunteers, and contracted employees who have direct contact with children who reside outside of Missouri that are subject to the background check requirements provided for in section 210.493, RSMo, which shall include a check of the child abuse and neglect registry and a criminal background check of the state or jurisdiction in which the individual resides. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo, to immediately notify the LRCF if they are listed in a state or local government registry as a perpetrator of child abuse or neglect, or if they were arrested or charged with any crime listed in section 210.493, RSMo;
4. A signed and dated copy of the contract or any agreement outlining purpose of presence on site;
5. A signed and dated copy of the confidentiality policy;
6. A signed and dated copy of the discipline policy;
7. A signed and dated copy of the mandated child abuse/neglect and critical incident reporting policies;
8. A signed and dated copy of the acknowledgement of receipt of manuals and policies related to the agreement/contract; and
9. Documentation of staff orientation participation.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 35—Children's Division Chapter 71—Rules for Residential Treatment Agencies for Children and Youth

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children's Division, under sections 207.020 and 660.017, RSMo

2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division adopts a rule as follows:

13 CSR 35-71.300 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1983-1986). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Children's Division received two (2) comments on the proposed rule.

COMMENT #1: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that subsection (3)(A), (9)(B), and paragraph (5)(A)2. should use the zip code "65103-0088" instead of "65102" for all three (3) uses.

RESPONSE AND EXPLANATION OF CHANGE: DSS disagrees with the change and will continue to use 65102 as per informations obtained from the U.S. Post Office.

COMMENT #2: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that section (4) should be amended to substitute "Thursday, October 14, 2021." for "Tuesday, October 12, 2021."

RESPONSE AND EXPLANATION OF CHANGE: DSS acknowledges the scrivener's error and has adopted the suggestion throughout the rule.

13 CSR 35-71.300 Notification Requirements for License-Exempt Residential Care Facilities

(1) Definitions. For the purpose of this regulation, unless otherwise specified in this section or unless the context clearly requires otherwise, the definitions of terms specified in sections 210.110, 210.481, 210.1253, RSMo, and 13 CSR 35-71.010 and 13 CSR 35-71.015 shall apply to this regulation. The singular includes the plural and plural includes the singular. In addition, the following terms are defined as follows:

(A) "Residential Care Facility Notification Act" or "RCFNA" refers to sections 210.1250–210.1286, RSMo.

(2) Designation of Authority. The Department of Social Services hereby designates the Children's Division of the Department of Social Services to be the division within the Department of Social Services to administer background checks as required by section 210.493, RSMo, 13 CSR 35-71.015, and the RCFNA.

(3) Application and Purpose of this Regulation. This regulation implements the requirements of the RCFNA. It applies to License-Exempt Residential Care Facilities (LERCFs).

(4) All LERCFs shall notify the division of their operation within Missouri before they accept any children as provided in this regulation and the RCFNA. LERCFs operating in Missouri and providing Residential Care Facility services to children on July 14, 2021, shall register with the division no later than Thursday, October 14, 2021.

(5) Notification Procedures.

(A) To notify with the division, the director of the LERCF, or his or her designee, shall file a notification using the division's online portal, or as may be otherwise provided in this regulation.

1. The online notification form, instructions and filing the notification are incorporated by reference and made a part of this rule as published by the Department of Social Services, Children's Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65102, at its website at [https://www.dss.mo.gov/provider-](https://www.dss.mo.gov/provider-services/children/residential-program/license-exempt.htm)

[services/children/residential-program/license-exempt.htm](https://www.dss.mo.gov/provider-services/children/residential-program/license-exempt.htm), October 1, 2021. This rule does not incorporate any subsequent amendments or additions. The LERCF shall submit the completed notification form and upload any supporting or supplemental forms and documentation through this online portal. The LERCF shall attach all documentation that may be necessary to complete the required notification and upload the documentation with the notification form.

2. The LERCF may apply to the division for permission to file the notification and supporting documentation by mail or private delivery services rather than through the online portal when there are unusual, compelling, and extenuating circumstances which make filing the notification through the online portal impossible. The LERCF shall apply for permission to file the notification form, supporting or supplemental materials with the division in writing, and shall explain the circumstances why the LERCF cannot submit the notification through the online portal. A copy of the notification form for use in submitting notification by mail is incorporated by reference and made a part of this rule as published by the Department of Social Services, Children's Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65102, at its website <https://www.dss.mo.gov/provider-services/children/residential-program/license-exempt.htm>, October 1, 2021. LERCFs may download a copy of the form. The LERCF shall attach all documentation that may be necessary to complete the required notification. If the division grants permission under this subsection the LERCF may submit the form with supporting materials by mail, by private delivery service, or in person to the offices of the division at Residential Program Unit, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, Missouri 65102; or by email at CD.NotifyRPU@dss.mo.gov.

(B) The notification form shall be signed by the director of the LERCF, or his or her designee, attesting that the information contained in the notice and the supplemental materials are true, accurate, complete, and subject to penalties of perjury. The division will accept e-signatures.

(C) The notification form shall designate the individual within the LERCF to be the point of contact between the LERCF and division. The point of contact between the division and the LERCF shall be the director unless otherwise specified by the LERCF. The notification form shall further indicate whether the LERCF prefers to receive communications by mail through the United States Postal Services or electronically by email.

(D) The notification shall contain the information required in this subsection and otherwise in this regulation.

1. The LERCF shall list its full name, street address, mailing addresses, email address, and phone number. The mailing address and email addresses shall be the addresses of record of the LERCF and all official correspondence to the LERCF will be sent to the mailing or email address on record.

2. The LERCF shall identify the name of the director, owner, operator, all staff members, volunteers, and any individual eighteen (18) years of age or older who resides at or on the property of the LERCF. The LERCF shall provide the name, street address, physical and electronic mailing addresses, and phone number of the director or director's designee who will serve as the point of contact between the division and the LERCF.

3. The LERCF shall provide a full description of the agency or organization operating the LERCF, including a statement as to whether the agency or organization is incorporated.

A. The description of the agency or organization shall specify the type of agency or organization.

B. If the agency or organization is incorporated then the LERCF shall provide the state in which the LERCF was incorporated and the corporate name of the LERCF.

4. The LERCF shall identify the name and address of the sponsoring organization of the residential care facility, if applicable.

5. The LERCF shall identify the school or schools attended by the children served by the residential care facility. The LERCF shall list the name and address of each school.

6. Fire and safety inspection certificates.

A. The LERCF shall include with the notification a copy of any and all fire and safety inspection certificates required by law in the jurisdiction where the LERCF operates, and shall indicate the date of the inspection and the date that each certificate expires, if any. If the LERCF operates in more than one (1) county or local jurisdiction then the LERCF shall submit the required certificates for each facility at each location. The LERCF shall indicate the date of the inspection and the date that each certificate expires, if applicable.

B. LERCFs operating in jurisdictions where there are no required fire and safety inspections shall include a statement to that effect in the notification form.

C. If the LERCF is unable, after exercising diligent efforts, and due to no fault of its own, to obtain fire and safety inspection certificates in jurisdictions where such certificates are required by state law or local ordinance, then the LERCF shall submit a statement describing the efforts made to obtain the certificate(s) and the reason why the LERCF was unable to obtain the certificate. The LERCF shall attach copies of any correspondence from any state, county, or local jurisdictions declining to conduct the inspection when available.

7. Local health department inspection certificates.

A. The LERCF shall include with the notification a copy of any and all state or local health department inspection certificates required in the jurisdiction in which the facility operates. If the LERCF operates in more than one (1) county or local jurisdiction, then the LERCF shall obtain the required certificates for each facility at each location. The LERCF shall indicate the date of the inspection and the date that each certificate expires, if any.

B. LERCFs operating in jurisdictions where there are no required local or county government health department inspections shall include a statement to that effect in the notification form.

C. If the LERCF is unable, after exercising diligent efforts, and due to no fault of its own, to obtain any required local health department inspection certificates in jurisdictions where such certificates are required by state law or local ordinance, then the LERCF shall submit a statement describing the efforts made to obtain the certificate(s) and the reason why the LERCF was unable to obtain the certificate. The LERCF shall attach copies of any correspondence from any state, county, or local jurisdictions declining to conduct the inspection when available.

8. Proof that medical records are maintained for each child.

A. The division will accept a written attestation, made under oath, subject to penalty of perjury, and executed by the director of the LERCF, that the LERCF actually maintains medical records for each child served by the LERCF according to the written policy of the LERCF, which shall be attached to the attestation.

B. The LERCF shall provide the division access to the facility upon request to inspect the medical records maintained by the LERCF on the children served by the LERCF in order to verify that the medical records are being kept. The division will request access to this information only when the division has reasonable basis to believe that the LERCF is not maintaining records for any child as required by law.

9. Background Check completion/eligibility. The director of the LERCF, or his or her authorized designee, shall certify, under oath subject to the penalties of perjury that all individuals who are required to complete a background check have successfully completed the background checks and have been found eligible for employment or presence at the LERCF pursuant to section 210.493, RSMo, and 13 CSR 35-71.015.

A. Phase-in period for LERCFs in operation as of July 14, 2021. For all original notifications submitted by LERCFs which were both in operation and had children in its facility as of July 14, 2021, the division will accept a written certification from the director of the LERCF that all individuals who are required to submit to a background check pursuant to section 210.493, RSMo, and 13 CSR 35-71.015 either have completed the background check requirements or

will have successfully completed the background check by the end of the phase-in period. Upon completion of this process the director or the director's designee shall provide written or electronic notice to the division certifying that the background check process for these individuals has been successfully completed. The division may extend this period for up to an additional one hundred twenty (120) days if the LERCF establishes, in writing, that it is unable to successfully complete the process by the deadline.

(E) When the division is satisfied that the LERCF has complied with all of the requirements for notification, the division will issue a letter to the LERCF—

1. Confirming the receipt of the completed notification;

2. Informing the LERCF that the records of the division reflect that the LERCF has successfully completed all of the notification process as of the date of the letter, that the LERCF may accept children pursuant to section 210.1259, RSMo, and that the division will include the LERCF on the list of LERCFs as specified in section 210.1280, RSMo, and section (9) of this regulation; and

3. Notifying the LERCF of the deadlines for submitting any supplemental notifications as provided in subsection (5)(F).

(F) Duty to Supplement. The LERCF shall have a continuing duty to submit a supplemental notification within fifteen (15) calendar days if or when—

1. The LERCF terminates its operations in Missouri;

2. The LERCF has any change in its physical address, mailing address, or email address, or other address on record; or

3. There is a change in the name, mailing address, email address, or other contact information for the director of the LERCF or designated point-of-contact of the LERCF.

4. The supplemental notification form shall be signed by the director of the LERCF or his or her designee attesting that the information contained in the form and the supplemental materials are true, accurate, and complete, and subject to penalties of perjury. The division will accept e-signatures.

(6) Nothing in this regulation shall give the division jurisdiction or authority to regulate or attempt to regulate, control, or influence the form, manner, or content of the religious curriculum, program, or ministry of the LERCF.

(7) When the department or the division is advised or has reason to believe that any LERCF is operating without proper notification in accordance with the RCFNA and the division's implementing regulations, the division shall give the director of the LERCF written notice by certified mail that the director shall file notification in accordance with the RCFNA and the division's implementing regulations, or the department may request a court injunction as provided under section 210.1271, RSMo, or take other action as may be authorized by law. The division shall send its written notice to the address of record of the LERCF when an address has been provided.

(A) The division may extend the time for the LERCF to comply with the notification requirements for up to sixty (60) days upon request of the LERCF and a showing by the LERCF that the LERCF has reasonable cause for the delay in completing the notification requirements and that the health and safety of the children will not be at risk.

(B) The division may further condition an extension of time upon the LERCF submitting a time-limited corrective action plan to complete the notification requirements that is mutually satisfactory to the LERCF and the division.

(8) Administrative Review and Judicial Review.

(A) Any LERCF which is aggrieved by a decision of the department or division under this regulation may file a request for administrative review of the decision within fourteen (14) days of the mailing of the decision as provided in this regulation.

(B) Administrative Review.

1. A request for administrative review shall be made in writing,

either on a form provided by the division or by letter or submitted electronically by email to the division to the email address specified in the division's decision. The request for administrative review shall include the following information:

A. The name, address, telephone number, and email address of the LERCF making the request for administrative review;

B. Specify whether the LERCF is requesting a response and notice of final decision by first-class mail or by email;

C. Identify the division's decision to be reviewed, and why the LERCF is aggrieved by the decision;

D. The LERCF shall include copies of any relevant documents, materials, or information that the LERCF wishes to submit in support of the request for administrative review; and

E. Specify whether or not the LERCF requests that the review be considered on the basis of the materials submitted, or whether the LERCF requests an in-person review conference. If the LERCF requests an in-person review conference then the LERCF shall also provide dates and times within the next thirty (30) days when the LERCF will be available and the reasons why the administrative review cannot be processed on the basis of the materials presented.

2. The LERCF may be represented by legal counsel.

3. The administrative review shall be conducted and decided based upon the written materials submitted to the division and any information and materials presented at an in-person review conference. If the LERCF establishes that there is a good reason to hold an in-person review conference then the division will hold an in-person review conference.

4. The in-person review conference may take place by telephone conference call, video conference, or in-person review conference at a date and time during regular working hours that are mutually convenient to the division and the LERCF requesting the conference.

5. The administrative review process and in-person review conference shall be informal. The rules of evidence shall not apply. There is no right to conduct discovery. There shall be no right to compel the production of witnesses or evidence by subpoena or otherwise.

6. The administrative review shall be conducted by an individual designated by the director of the department or division, who may be an employee of the division or the department. However, the individual shall not have been involved in making the decision which is subject to review.

7. The individual conducting the administrative review shall conduct the administrative review and render a written decision no later than thirty (30) days from the date that the division received the request for administrative review.

8. The decision upon administrative review shall be the final decision of the department.

(9) The division will maintain a list of all LERCFs which are in compliance with the requirements of sections 210.1250–210.1286, RSMo, and this regulation.

(A) The list shall include the following information:

1. The name, physical address, and mailing address of the LERCF;

2. The name of the director of the LERCF; and

3. Whether the LERCF has submitted any fire and safety or health department certificates with the notification.

(B) The division will provide a copy of the list to anyone who asks, upon request submitted to the Children's Division, Residential Program Unit, 205 Jefferson Street, PO Box 88, Jefferson City, Missouri 65102; or by email at CD.NotifyRPU@dss.mo.gov.

(C) The director of any LERCF may submit written request to correct any errors in the list or to supplement the list with updated information.

(D) The division will update the list when errors or updates are brought to its attention. Except in cases where there is a scrivener's error, the division will provide notice and an opportunity to object

making any changes about the LERCF on the list. The LERCF may seek administrative review of any changes in the list following the procedures specified in this regulation.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 73—Child Placing Agencies

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children's Division, under sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division amends a rule as follows:

13 CSR 35-73.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1987-1989). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Children's Division received one (1) staff comment on the proposed amendment.

COMMENT #1: Rob Tillman, Special Counsel for the Department of Social Services, commented that in 13 CSR 35-73.010(2)(T) the word "than" should be added after "less," so that the paragraph reads, " 'Foster parent' means a person of age twenty-one (21) or older who is licensed to provide twenty-four-(24-) hour care to one (1) or more, but less than six (6), children who are unattended by parent or guardian, and who is unrelated to the child(ren) by blood, marriage, or adoption:

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has adopted the proposed language to improve the clarity of the passage.

13 CSR 35-73.010 Scope and Definitions

(2) Unless the context clearly requires otherwise, the definitions of terms specified in sections 210.110, 210.481, and 210.1253, RSMo, and 13 CSR 35-71.010 and 13 CSR 35-71.015 shall apply to all regulations in this chapter (13 CSR 35-73). The singular includes the plural and the plural includes the singular. In addition, the following terms are defined as:

(T) "Foster parent" means a person of age twenty-one (21) or older who is licensed to provide twenty-four- (24-) hour care to one (1) or more, but less than six (6), children who are unattended by parent or guardian, and who is unrelated to the child(ren) by blood, marriage, or adoption;

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 73—Child Placing Agencies

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children's Division, under sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division amends a rule as follows:

13 CSR 35-73.012 is amended.

A notice of proposed rulemaking containing the text of the proposed

amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1989-1990). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Children's Division received two (2) comments on the proposed amendment.

COMMENT #1: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that paragraph (2)(A)3. should substitute "Child Placing Agency" for "LERCF."

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has adopted the suggested changes.

COMMENT #2: Rob Tillman, Special Counsel for the Department of Social Services, commented that in 13 CSR 35-73.012(2)(A)3., per the post office, the correct zip code is 65102, rather than 65103-0088.

RESPONSE AND EXPLANATION OF CHANGE: DSS agrees and has amended the zip code so that it is 65102.

13 CSR 35-73.012 Basis for Licensure and Licensing Procedures

(2) Application for Licensure.

(A) To apply for a license to operate a Child Placing Agency in Missouri, the individual legally authorized to act on behalf of the Child Placing Agency shall file an application with the division on forms provided by the division.

1. The application forms are published on the division's website and are incorporated by reference and made a part of this rule as published by the Department of Social Services, Children's Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65102, and on the web at <https://www.dss.mo.gov/provider-services/children/residential-program/child-placing.htm>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions. The Child Placing Agency shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The Child Placing Agency shall submit the form with supplementary materials to the division by email at the following email address: CD.CHILDPLACINGAPPS@dss.mo.gov.

2. The application form shall be signed by the legally authorized representative of the Child Placing Agency. The division will accept electronic signatures (e-signatures).

3. The Child Placing Agency may apply to the division for permission to submit its application and supporting documentation by mail or private delivery services rather than email when there are unusual, compelling, and extenuating circumstances which make submission by email impossible. The Child Placing Agency shall apply for permission to file the materials with the division in writing, and shall explain the circumstances why it cannot submit the materials by email. The Child Placing Agency shall attach all documentation that may be necessary to complete the required notification. If the division grants permission under this subsection the agency may submit the form with supporting materials by mail, by private delivery service, or in person to the offices of the division at Residential Program Unit, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, Missouri 65102; or by email to CD.CHILDPLACINGAPPS@dss.mo.gov.

(B) An agency shall submit the following documents to the division along with the application:

1. Documentation of the legal basis for operation;
2. A certified copy of the current Articles of Incorporation;
3. A copy of the current by-laws;
4. A list of the names and addresses of the current members of the governing board and a notarized letter of acceptance from each;
5. A completed personnel report on a form prescribed by the division;

6. Verification of the education, experience, and character of the administrator, all professional staff, and all contracted personnel;

7. Verification of a physical examination for all staff working directly with children, completed by a licensed physician or a registered nurse who is under the supervision of a licensed physician;

8. Certification that all individuals who are required to complete a background check are eligible for employment or presence at the Child Placing Agency as required in section 210.493, RSMo, and 13 CSR 35-71.015;

9. A chart depicting the agency's organizational structure and lines of supervision;

10. A proposed budget for a period of not less than twelve (12) months duration which shows both anticipated expenses and income for the period;

11. An itemized schedule of all fees to be assessed to applicants;

12. Verification of availability of not less than ninety (90) days operating capital;

13. A copy of the Civil Rights Agreement signed by the president of the governing board or the agency director;

14. An outline of the agency's proposed program and the specific geographic area to be served (this shall be directly related to the number of staff and the geographic area to which it can actually provide services);

15. A projected staffing plan for the anticipated capacity and programming of the agency;

16. A written statement clearly setting forth the authority and responsibilities delegated to a director, administrator, or supervisor, if other than the owner. When the responsibility for the operation of an agency rests with the governing board, that governing board shall establish written policies and procedures which clearly establish the lines of responsibility governing the operation of the agency. These shall include a statement of the kind and extent of authority delegated to the director employed to carry out the program;

17. A written description of intake policies which delineates the types of services to be provided, specific programs offered, and the methods of care and treatment to be provided;

18. Job title, job description, and minimum qualifications for all staff;

19. Written child abuse and neglect reporting policy;

20. Written personnel practices, including staff training and orientation;

21. Written discipline policy for children in care;

22. Written visitation policy for children in care;

23. Written health care policy for children in care which shall include preventive, medical, eye, hearing, and dental care;

24. A written statement of any religious practices or religious restrictions;

25. A written plan for all foster parent training; and

26. Proof of professional and commercial general liability insurance.

(C) The application shall be complete when the Child Placing Agency has submitted and the division has received a fully completed application form and all necessary supporting documentation.

(D) A new application shall be filed—

1. If the agency fails to follow through with completing the requirements for licensure within six (6) months of initial application;

2. When an application for licensure has been withdrawn, and the agency seeks to reapply;

3. When there is a change of ownership or corporate status of the agency;

4. When the division has revoked or refused to renew a license, and a new license is sought; or

5. When a license or application has been voluntarily surrendered or withdrawn by the applicant.

(3) Licensing Assessment.

(A) After the application is complete the division will conduct a

thorough assessment of the agency, including a review of the documents required in this rule and visits to the agency to determine compliance with the licensing law and applicable rules.

(6) Licensing Renewal.

(A) The Child Placing Agency shall complete and return the application to the division sixty (60) days prior to the expiration of the current license. The Child Placing Agency shall utilize the forms indicated in paragraph (2)(A)1. of this regulation to initiate the license renewal process. The Child Placing Agency shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The Child Placing Agencies shall submit the form with supplementary materials by email to the division to the following email address: CD.CHILD-PLACINGAPPS@dss.mo.gov. The application form shall be signed by the Director of the Child Placing Agency or the director's authorized designee. The division will accept electronic signatures.

(B) The division shall initiate action on the completed application prior to the expiration of the existing licensure period.

(C) When an agency has made timely and sufficient application for renewal of a license, and the division fails to render a decision on the application for renewal of the license prior to the expiration date on the license, the existing license shall continue in full force and effect for up to thirty (30) days until the final decision of the division has been made. The division may further extend the period in which such decision must be made in individual cases for up to thirty (30) additional days, if good cause is shown.

(D) In addition to the completed renewal application, the Child Placing Agency shall submit the following documentation with the application:

1. Verification of a biennial physical examination, completed by a licensed physician, registered nurse who is under the supervision of a licensed physician, or an advanced practice nurse in a collaborative agreement with a licensed physician for all staff working directly with children (see 13 CSR 35-73.030(3)(A));

2. A current governing board roster, with officers identified, including the addresses and a notarized letter of acceptance from each member;

3. A summary of any significant changes to programs and copies of any resulting policies or policy changes;

4. A copy of the current organizational chart;

5. A completed personnel report on a form prescribed by the division;

6. Certification that all individuals who are required to submit to a background check have completed their background checks and have been found eligible by the division for employment or presence at the Child Placing Agency as provided in section 210.493, RSMo, and 13 CSR 35-71.015;

7. Results of an annual check of the Child Abuse and Neglect CRU for all staff, contracted personnel, and volunteers working with children;

8. Results of the annual criminal records check for all staff, contracted personnel, and volunteers working with children;

9. A copy of a biennial financial audit and evaluation of the financial soundness of the operation conducted by a certified public accountant not employed by the agency;

10. A copy of the budget for the current calendar or fiscal year;

11. A statistical report on a form supplied by the division;

12. A list of the names and addresses of all current foster homes licensed by the agency;

13. An annual written plan for all foster parent training;

14. A written plan indicating how the agency will provide for the transfer of records on both open and closed cases in the event the agency closes;

15. An annual program evaluation;

16. An itemized schedule of all fees to be assessed to applicants; and

17. Copies of all written agreements (contracts) for the adoption process.

(E) When an agency has made timely and sufficient application for renewal of a license, and the division fails to render a decision on the application for renewal of the license prior to the expiration date on the license, the existing license shall continue in full force and effect for up to thirty (30) days until the final decision of the division has been made. The division may further extend the period in which such decision must be made in individual cases for up to thirty (30) additional days, if good cause is shown.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 73—Child Placing Agencies

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services Children's Division, under sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division amends a rule as follows:

13 CSR 35-73.017 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1990-1993). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Children's Division received one (1) comment on the proposed amendment.

COMMENT #1: Rob Tillman, Special Counsel for the Department of Social Services, in response to feedback from the Joint Committee for Administrative Rules (JCAR), commented that paragraph (1)(A)5. "employs" people they shouldn't. Should this also say that they can't be volunteers?

RESPONSE AND EXPLANATION OF CHANGE: Volunteers and contractors were not included due to a scrivener's error. The state statute makes it clear that the DSS may take action when the Child Placing Agency (CPA) employs persons, utilizes volunteers or utilizes contractors who the division has found ineligible for employment or presence at the CPA pursuant to section 210.493, RSMo, and 13 CSR 35-71.015. Paragraph (1)(A)5. has therefore been amended to include volunteers and contractors.

13 CSR 35-73.017 Hearings and Judicial Review

(1) License Denial, or Revocation.

(A) The division may refuse to issue a license to an applicant, or may deny or revoke the license of a licensee, who—

1. Fails consistently to comply with the applicable provisions of sections 210.481–210.536 and Chapter 453, RSMo, if licensed as an adoption agency, and the applicable corresponding rules;

2. Violates any of the provisions of its license;

3. Violates state laws or rules relating to the protection of children;

4. Abuses or neglects children, or permits the abuse or neglect of children, or is the subject of multiple or serious reports of child abuse or neglect which upon investigation results in a finding of probable cause to suspect child abuse or neglect and fails to take corrective action acceptable to the division to ensure the safety of children;

5. Employs persons, utilizes volunteers, or utilizes contractors who the division has found ineligible for employment or presence at the Child Placing Agency pursuant to section 210.493, RSMo, and 13 CSR 35-71.015, or who abuse or neglect children, or are the subjects of multiple reports of child abuse or neglect which upon investigation results in a finding of preponderance of the evidence that the

individual is responsible for child abuse or neglect and the agency fails to take corrective action acceptable to the division to ensure the safety of children;

6. Furnishes or makes any misleading or false statements or reports to the division;

7. Refuses to submit any reports or to make available to the division any records required in making an investigation;

8. Fails or refuses to submit to an investigation by an authorized and identified representative of the division at any reasonable time;

9. Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children as required by law, rule, or ordinance applicable to the location of a facility; or

10. Fails to provide adequate financial resources for the satisfactory care of children being served.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 73—Child Placing Agencies**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children’s Division, under sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division amends a rule as follows:

13 CSR 35-73.030 Personnel Practices and Personnel is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1994). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 73—Child Placing Agencies**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Children’s Division, under sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021, the division amends a rule as follows:

**13 CSR 35-73.035 Staff Qualifications and Requirements
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 1994-1995). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Children’s Division received one (1) comment on the proposed amendment.

COMMENT #1: Erica Signars, Special Assistant Professional for the Department of Social Services, commented that the department believes the statutory scheme should be re-analyzed to see whether the rules can be amended to avoid requiring background checks

under section 210.493, RSMo, for certain individuals who will not have access to children and will not be employed or serve a Child Placing Agency (CPA) in Missouri. For example, “other support staff” who work for or volunteer from another state at a multi-state CPA. Similarly, the department may need to define “contractor”—which is also used by section 210.493, RSMo, and has also invited some confusion.

RESPONSE: DSS has considered the comment and amended 13 CSR 35-71.015 to define “other support staff” for reasons raised by this comment and comments to 13 CSR 35-71.015. No changes to 13 CSR 35-73.035 have been made.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 65—Missouri Medicaid Audit and Compliance
Chapter 2—Medicaid**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Missouri Medicaid Audit and Compliance, under sections 208.159 and 660.017, RSMo 2016, the division amends a rule as follows:

**13 CSR 65-2.030 Denial or Limitations of Applying Provider
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1772-1773). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement, and Procedure of General Applicability**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.153, 208.201, and 660.017, RSMo 2016, the division rescinds a rule as follows:

13 CSR 70-3.020 Title XIX Provider Enrollment is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1773-1774). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement, and Procedure of General Applicability**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.201 and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 70-3.140 Direct Deposit of Provider Reimbursement is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1774). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 4—Conditions of Participant Participation,
Rights and Responsibilities**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division, under section 208.152, RSMo Supp. 2021, and sections 208.201 and 660.017, RSMo 2016, the division rescinds a rule as follows:

13 CSR 70-4.050 Copayment and Coinsurance for Certain Medicaid-Covered Services is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1775). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division, under section 208.152, RSMo Supp. 2021, and sections 208.153, 208.201, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 70-15.015 Direct Medicaid Payments is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2021 (46 MoReg 1775-1778). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO

HealthNet Division, under sections 208.201 and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 70-15.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2021 (46 MoReg 1680-1684). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The MO HealthNet Division received five (5) comments on the proposed amendment.

COMMENT #1: Brian Kinkade, Vice President of Children's Health and Medical Advocacy, Missouri Hospital Association, commented that subsection (2)(C) establishes no basis for a fair, rational, or transparent rate-setting methodology for private Psychiatric Rehabilitation Treatment Facilities (PRTFs), and that the rule must clearly state the manner, standards, and principles on which the state will set its Medicaid rate for private PRTF providers, and that the suggested private PRTF per diem rate of four hundred seventeen dollars and twenty-two cents (\$417.22) will be deemed insufficient by potential providers.

RESPONSE AND EXPLANATION OF CHANGE: The MO HealthNet Division (MHD) updated paragraph (2)(C)1. by replacing "per diem rate as determined by the state agency" with "prospective per diem rate." MHD also inserted after the first sentence in paragraph (2)(C)1. the following: "The prospective Missouri Private PRTF per-diem rate was created using a wage rate model which utilized data derived from cost surveys prepared and submitted by potential PRTF providers. These cost surveys were collected February 2021 or prior. The model specifically examines potential facility, occupancy, staff-to-patient ratios, necessary nursing hours per patient day, direct care and behavioral health professional wage and overhead expense, and risk factors. For a detailed breakdown of these calculations, see: <https://dss.mo.gov/mhd/cs/psych/pdf/mo-prtf-wage-rate-build-model.pdf>. The Missouri Prospective PRTF Rate Methodology document is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, on its website at <https://dss.mo.gov/mhd/cs/psych/pdf/mo-prtf-wage-rate-build-model.pdf>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions."

COMMENT #2: Brian Kinkade, Vice President of Children's Health and Medical Advocacy, Missouri Hospital Association, commented that paragraph (4)(C)1. should be amended to require the independent review team certifying admissions for PRTF placement or hospital inpatient psychiatric care to be accredited by DNF-GL or an equivalent organization.

RESPONSE AND EXPLANATION OF CHANGE: Thank you for your comments. The MO HealthNet Division is not aware of an organization with the acronym "DNF-GL." It is our understanding that some hospitals in Missouri are accredited by Det Norske Veritas (DNV), which is approved by the Centers for Medicare & Medicaid Services. MO HealthNet is adding DNV-GL or equivalent organization to the list of acceptable accrediting organizations for private PRTF in subsection (1)(D) by replacing "or the Commission on Accreditation of Rehabilitation Facilities" with "the Commission on Accreditation of Rehabilitation Facilities, DNV-GL, or equivalent organization."

COMMENT #3: Brian Kinkade, Vice President of Children's Health and Medical Advocacy, Missouri Hospital Association, commented that the rule is unclear if and how the requirement of PRTF admissions being certified by an independent review team will be applied to children covered by Medicaid managed care plans. Essentially all

children accessing PRTF after July 1, 2022, will do so through the managed care plan to which they are assigned. In the case of children enrolled in managed care, the team certifying an admission to a PRTF should be independent of both the hospital and the managed care plan. This protection is particularly important because most of the children who will need this service are children in the protective custody of the state who for the first time will have their behavioral health care provided through managed care beginning July 2022.

RESPONSE: Thank you for your comments. This regulation requires that the independent review team cannot be employed or be receiving regular payments as a consultant by the hospital or PRTF. The independent review team does not need to be independent from the payer, whether MO HealthNet fee-for-service or managed care. No further changes will be made.

COMMENT #4: Brian Kinkade, Vice President of Children's Health and Medical Advocacy, Missouri Hospital Association, commented that the regulation must also provide protections against managed care plans inappropriately directing children into PRTF care in lieu of inpatient psychiatric care. The department should forbid and the rule prohibit managed care plans creating de facto PRTF placements by denying or reducing the rate paid to an inpatient psychiatric hospital for a child admitted for inpatient care, but who is unable to be discharged because placement in a PRTF or an appropriate lower level of community placement is unavailable, or if clinical indications are that inpatient psychiatric care is most appropriate for the child.

RESPONSE: Thank you for your comments. No further changes will be made.

COMMENT #5: Brian Kinkade, Vice President of Children's Health and Medical Advocacy, Missouri Hospital Association, commented that subsection (9)(J) should be amended to clarify that, pursuant to HB 432 (2021), hospitals are entitled to payment for the days of care provided to children in the custody of the Children's Division who cannot be safely discharged from an inpatient admission or from an emergency room because the appropriate community placement and/or community-based services the child needs are not available.

RESPONSE: Thank you for your comment. No change will be made. This regulation pertains to payments for medically necessary inpatient psychiatric services for youth, which are the responsibility of MO HealthNet Division. The compensation referenced in HB 432 (2021), when placement issues for Children's Division youth prevent discharge, is the responsibility of the Children's Division.

13 CSR 70-15.070 Inpatient Psychiatric Services for Individuals Under Age Twenty-One

(1) Pursuant to provisions of section 208.161, RSMo, MO HealthNet coverage will be afforded to eligible individuals under age twenty-one (21) for inpatient psychiatric services provided under the following conditions:

(A) Under the direction of a physician; and

(B) In a psychiatric hospital facility or an inpatient psychiatric program in a hospital, either of which is accredited by a national organization whose psychiatric hospital accrediting program has been approved by Centers for Medicare & Medicaid Services (CMS) or is licensed by the hospital licensing authority of Missouri; or

(C) In a psychiatric residential treatment facility (PRTF) that is operated as a public institution by the Missouri Department of Mental Health (DMH) and is exempt from the hospital licensing law, that is accredited by the Joint Commission, and is certified as complying with the requirements at 42 CFR 441 subpart D and the condition of participation at 42 CFR 483 subpart G by the designated state agency for which such authority has been authorized; or

(D) In a privately operated PRTF that is accredited by the Joint Commission, the Council on Accreditation, the Commission on Accreditation of Rehabilitation Facilities, Det Norske Veritas (DNV), or equivalent organization, and is certified as complying with the

requirements at 42 CFR 441 subpart D and the condition of participation at 42 CFR 483 subpart G by the designated state agency for which such authority has been authorized; and

(E) For claimants under the age of twenty-one (21) or, if receiving the services immediately before attaining the age of twenty-one (21), not to extend beyond the earlier of the date—

1. Services are no longer required; or

2. Individual reaches the age of twenty-two (22).

(2) Reimbursement for inpatient psychiatric services, as provided for in this rule, shall be made as follows:

(A) For psychiatric hospitals and inpatient psychiatric programs within general hospitals, reimbursement will be calculated in accordance with the provisions for inpatient hospital care reimbursement at 13 CSR 70-15.010;

(B) For state operated PRTF services for individuals under the age of twenty-one (21), reimbursement will be calculated as follows:

1. The MO HealthNet Division shall reimburse state operated PRTFs for services based on the individual participant's days of care multiplied by the facility's Title XIX per diem rate less any payments made by participants;

2. The per diem for a state-operated PRTF is calculated as follows:

A. Determine the total costs from the second prior year hospital cost report (i.e. FY 2021 per diem rate is based off the hospital's 2019 cost report) for PRTF services;

B. Trend the total cost of the state operated PRTF by the Hospital Market Basket index as published in Healthcare Cost Review by Institute of Health Systems (IHS), or equivalent publication, regardless of any changes in the name of the publication or publisher;

C. Determine the total PRTF patient days from the DMH Customer Information Management, Outcomes and Reporting (CIMOR) system for the second prior year to correspond with the hospital cost report; and

D. Divide the trended cost as determined in subparagraphs (2)(B)2.A. and (2)(B)2.B. of this rule by the total patient days as determined in subparagraph (2)(B)2.C. of this rule to arrive at the State-Operated PRTF per diem; and

3. The per diem is updated each state fiscal year using the second prior year cost report; and

(C) For private PRTF services for individuals under the age of twenty-one (21), reimbursement will be calculated as follows:

1. Effective for dates of service on or after September 29, 2021, the division will reimburse private PRTFs on a prospective per diem rate. The prospective Missouri Private PRTF per diem rate was created using a wage rate model which utilized data derived from cost surveys prepared and submitted by potential PRTF providers. These cost surveys were collected February, 2021 or prior. The model specifically examines potential facility, occupancy, staff to patient ratios, necessary nursing hours per patient day, direct care and behavioral health professional wage and overhead expense, and risk factors. For a detailed breakdown of these calculations, see: <https://dss.mo.gov/mhd/cs/psych/pdf/mo-prtf-wage-rate-build-model.pdf>. The Missouri Prospective PRTF Rate Methodology document is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, on its website at <https://dss.mo.gov/mhd/cs/psych/pdf/mo-prtf-wage-rate-build-model.pdf>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions. The per diem rate is included in the MO HealthNet Division (MHD) fee schedule, which is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, on its website at <https://dss.mo.gov/mhd/providers/pages/cptagree.htm>, August 13, 2021. This rule does not incorporate any subsequent amendments or additions.

**Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 4—Missouri Education Program**

ORDER OF RULEMAKING

By the authority vested in the State Treasurer's Office under section 166.415, RSMo Supp. 2021, and section 536.023, RSMo 2016, the treasurer amends a rule as follows:

15 CSR 50-4.010 General Organization is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2021 (46 MoReg 2161-2162). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 4—Missouri Education Program**

ORDER OF RULEMAKING

By the authority vested in the State Treasurer's Office under section 166.415, RSMo Supp. 2021, and section 536.023, RSMo 2016, the treasurer amends a rule as follows:

15 CSR 50-4.020 Missouri Education Program is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2021 (46 MoReg 2162-2164). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 4—Missouri Education Program**

ORDER OF RULEMAKING

By the authority vested in the State Treasurer's Office under section 166.415, RSMo Supp. 2021, and section 536.023, RSMo 2016, the treasurer amends a rule as follows:

**15 CSR 50-4.030 Missouri MOST 529 Matching Grant Program
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2021 (46 MoReg 2164). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES
Division 30—Division of Regulation and Licensure
Chapter 1—Controlled Substances**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under section 195.015, RSMo Supp. 2021, and section 195.195, RSMo 2016, the department amends a rule as follows:

19 CSR 30-1.002 Schedules of Controlled Substances is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2021 (46 MoReg 2004-2016). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

The Secretary of State is required by sections 347.141 and 359.481, RSMo, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to adrules.dissolutions@sos.mo.gov.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS AND CLAIMANTS AGAINST
T & C HEALTHCARE, L.L.C.

On December 20, 2021, T & C Healthcare, L.L.C., a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for a Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: **Terry Cole, 83 N. Ridge Rd., Sikeston, Missouri 63801**. Each claim must include the following information: name, address and phone number of the claimant; amount claimed; date on which the claim arose; the basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS AND CLAIMANTS AGAINST
JCJ FEE OFFICE LLC

On December 20, 2021, JCJ Fee Office LLC, a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for a Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: **Terry Cole, 83 N. Ridge Rd., Sikeston, Missouri 63801**. Each claim must include the following information: name, address and phone number of the claimant; amount claimed; date on which the claim arose; the basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

BAIRD HOLM LLP
1700 Farnam Street
Suite 1500
Omaha, Nebraska

NOTICE OF WINDING UP
AND DISSOLUTION OF
LIMITED LIABILITY COMPANY
TO ALL CREDITORS OF
AND CLAIMANTS AGAINST
MRC NEBRASKA NMTC INVESTMENT FUND, LLC

MRC NEBRASKA NMTC INVESTMENT FUND, LLC, a Missouri limited liability company (the "Company"), filed a Notice of Winding Up with the Missouri Secretary of State, effective on the filing date. Notice is hereby given to all creditors or others with claims against the Company that claims must be sent to: Heartland Family Service, c/o John Jeanetta, 2101 S. 42nd Street, Omaha, Nebraska 68105, and must document the basis for the claim and attach documentation in the possession of the claimant substantiating the claim. Any claim must contain sufficient information for the determination of whether it is a valid claim. A claim against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this Notice.

BAIRD HOLM LLP
1700 Farnam Street
Suite 1500
Omaha, Nebraska

NOTICE OF WINDING UP
AND DISSOLUTION OF
LIMITED LIABILITY COMPANY
TO ALL CREDITORS OF
AND CLAIMANTS AGAINST
USBCDE SUB-CDE 127, LLC

USBCDE SUB-CDE 127, LLC, a Missouri limited liability company (the "Company"), filed a Notice of Winding Up with the Missouri Secretary of State, effective on the filing date. Notice is hereby given to all creditors or others with claims against the Company that claims must be sent to: Heartland Family Service, c/o John Jeanetta, 2101 S. 42nd Street, Omaha, Nebraska 68105, and must document the basis for the claim and attach documentation in the possession of the claimant substantiating the claim. Any claim must contain sufficient information for the determination of whether it is a valid claim. A claim against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this Notice.

NOTICE OF DISSOLUTION
OF
LIMITED LIABILITY COMPANY

NOTICE OF DISSOLUTION TO ALL CREDITORS AND CLAIMANTS:

1. The name of the dissolved limited liability company is Valda, LLC, Charter No. LC1053202.
2. The Articles of Organization for the limited liability company were filed on April 23, 2010. Valda, LLC has been dissolved effective December 31, 2021.
3. Persons with claims against the limited liability company should present them in accordance with the following procedure:
 - A. In order to file a claim with the limited liability company, you must furnish the following: Amount of the claim, Basis for the claim, Documentation of the claim.
 - B. Claims must be mailed to: Richard A. Broida, c/o Carolyn M. Ohlsen, Registered Agent, 1401 S. Brentwood Blvd., Suite 100 St. Louis, MO 63144.
4. NOTICE: A claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of the notice. In Affirmation thereof, the facts stated above are true and correct:
(The undersigned understands that false statements made in this filing are subject to the penalties provided under R.S.Mo Section 575.040.)

Notice of Winding Up of Limited Liability Company
To All Creditors of and
Claimants Against
THE KICKHAM FAMILY LIMITED LIABILITY COMPANY

On January 10, 2022, THE KICKHAM FAMILY LIMITED LIABILITY COMPANY, a Missouri limited liability company, filed its Articles of Termination and Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State, effective on **December 31, 2021**.

Said limited liability company requests that all persons and organizations who have claims against it present them immediately by letter to the company at:

THE KICKHAM FAMILY LIMITED LIABILITY COMPANY
Attn: Michael F. Kickham, Jr.
1508 Dietrich Glen
Ballwin, MO 63021

With a copy to: Sandberg Phoenix & von Gontard, P.C.
Attn: Anthony J. Soukenik, Esq.
600 Washington Avenue, 15th Floor
St. Louis, MO 63101
(314) 231-3332

All claims must include the name and address of the claimant; the amount claimed; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

NOTICE: Because of the notice of winding up of THE KICKHAM FAMILY LIMITED LIABILITY COMPANY, any claims against it will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication date of the notices authorized by statute, whichever is published last.

**NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS
AGAINST CAS MULTI, LLC**

Effective January 10, 2022, CAS MULTI, LLC, a Missouri limited liability company (the "Company"), filed its Notice of Winding Up for a limited liability company with the Missouri Secretary of State.

Any claims against the Company may be sent to: Christopher L. Stout, 11245 Talamore Boulevard, Bentonville, Arkansas 72712. Each claim must include the following information: name, address, and phone number of the claimant; amount claimed; date on which the claim arose; the basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

**NOTICE OF TERMINATION
TO ALL CREDITORS
OF AND CLAIMANTS AGAINST
SYDENSTRICKER FARMS, LLC**

Articles of Termination for SYDENSTRICKER FARMS, LLC have been filed with the Missouri Secretary of State. All claims against SYDENSTRICKER FARMS, LLC must be submitted in writing to Thomas L. Ferguson, 4508 Bluff Drive, Oak Grove, MO 64075. Claims must include the name, address and phone number of the claimant, amount claimed, date claim arose and the basis for such claim. All claims will be barred unless a proceeding to enforce the claim is commenced within two years of publication of this notice.

NOTICE OF CORPORATION DISSOLUTION

To: All creditors of and claimants against McCRACKEN'S ENTERPRISES, INC.

On January 5, 2022, McCRACKEN'S ENTERPRISES, INC., a Missouri corporation, Charter Number **00154129**, filed its Articles of Dissolution by Voluntary Action with the Missouri Secretary of State.

All persons or organizations having claims against McCRACKEN'S ENTERPRISES, INC., are required to present them immediately in writing to:

Gayle Evans, Attorney at Law
CHINNERY EVANS & NAIL, P.C.
800 NE Vanderbilt Lane
Lee's Summit, MO 64064

Each claim must contain the following information:

1. Name and current address of the claimant.
2. A clear and concise statement of the facts supporting the claim.
3. The date the claim was incurred.
4. The amount of money or alternate relief demanded.

NOTE: CLAIMS AGAINST McCRACKEN'S ENTERPRISES, INC., WILL BE BARRED UNLESS A PROCEEDING TO ENFORCE THE CLAIM IS COMMENCED WITHIN TWO YEARS AFTER THE PUBLICATION OF THIS NOTICE.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF
AND CLAIMANTS AGAINST
ERBS & ERBS P.C.

On January 12, 2022 ERBS & ERBS P.C. filed its Articles of Dissolution by Voluntary Action with the Missouri Secretary of State. The dissolution was effective January 12, 2022.

You are hereby notified that if you believe you have a claim against ERBS & ERBS P.C., you must submit a summary in writing of the circumstances surrounding your claim to the corporation at 8605 Green Springs Drive, St. Louis, MO 63123. The summary of your claim must include the following information:

1. The name, address, and telephone number of the claimant.
2. The amount of the claim.
3. The date on which the event on which the claim is based occurred.
4. A brief description of the nature of the debt or the basis for the claim.

All claims against ERBS & ERBS P.C. will be barred unless the proceeding to enforce the claim is commenced within two years after publication of this notice.

**NOTICE OF DISSOLUTION TO ALL CREDITORS AND
CLAIMANTS AGAINST C.S.K. CARWASH, INC.**

C.S.K. CARWASH, INC., a Missouri Corporation, filed its Articles of Dissolution with the Secretary of State of Missouri on December 31, 2021. Any and all claims against C.S.K. CARWASH, INC., may be sent to Eric M. Worster and/or Melinda M. Ward, Spencer Fane LLP, 6201 College Blvd., Suite 500, Overland Park, KS 66211. Each claim should include the following: name, address, and telephone number of claimant; amount of claim; basis of the claim; the date(s) on which the event(s) on which the claim is based occurred; and documentation in support of the claim. Any claims against C.S.K. CARWASH, INC. will be barred unless a proceeding to enforce the claim is commenced within two years after the date of this publication.

**NOTICE OF DISSOLUTION TO ALL CREDITORS AND
CLAIMANTS AGAINST T.C.S.K. CARWASH, INC.**

T.C.S.K. CARWASH, INC., a Missouri Corporation, filed its Articles of Dissolution with the Secretary of State of Missouri on December 31, 2021. Any and all claims against T.C.S.K. CARWASH, INC. may be sent to Eric M. Worster and/or Melinda M. Ward, Spencer Fane LLP, 6201 College Blvd., Suite 500, Overland Park, KS 66211. Each claim should include the following: name, address, and telephone number of claimant; amount of claim; basis of the claim; the date(s) on which the event(s) on which the claim is based occurred; and documentation in support of the claim. Any claims against T.C.S.K. CARWASH, INC. will be barred unless a proceeding to enforce the claim is commenced within two years after the date of this publication.

**NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY
TO ALL CREDITORS OF AND CLAIMANTS AGAINST
PNW INVESTMENTS, LLC**

PNW Investments, LLC, a Missouri Limited Liability Company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State on December 28, 2021. Any and all claims against PNW Investments, LLC may be sent to Anderson & Associates, Attorneys at Law, 4006 Central Street, Kansas City, MO 64111. Each claim must include: (i) the name, address, and telephone number of the claimant; (ii) amount of the claim; (iii) basis for the claim; and (iv) documentation of the claim. Any and all claims against PNW Investments, LLC will be barred unless a proceeding to enforce such claim is commenced within three (3) years after the publication of this notice.

NOTICE OF CORPORATION DISSOLUTION

To: All creditors of and claimants against A-1 MINI STORAGE, INC.

On January 5, 2022, A-1 MINI STORAGE, INC., a Missouri corporation ("Corporation"), Charter Number **00239083**, was dissolved pursuant to the filing of Articles of Dissolution by the Corporation Division, Missouri Secretary of State

All persons or organizations having claims against A-1 MINI STORAGE, INC., are required to present them immediately in writing to:

Nancy E. Blackwell, Attorney at Law
CHINNERY EVANS & NAIL, P.C.
800 NE Vanderbilt Lane
Lee's Summit, MO 64064

Each claim must contain the following information:

1. Name and current address of the claimant.
2. A clear and concise statement of the facts supporting the claim.
3. The date the claim was incurred.
4. The amount of money or alternate relief demanded.

NOTE: CLAIMS AGAINST A-1 MINI STORAGE, INC., WILL BE BARRED UNLESS A PROCEEDING TO ENFORCE THE CLAIM IS COMMENCED WITHIN TWO YEARS AFTER THE PUBLICATION OF THIS NOTICE.

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*. Citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—43 (2018) and 44 (2019). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
OFFICE OF ADMINISTRATION					
1 CSR 10	State Officials' Salary Compensation Schedule				45 MoReg 1926
1 CSR 10-15.010	Commissioner of Administration	46 MoReg 1373			
1 CSR 20-5.020	Personnel Advisory Board and Division of Personnel		This Issue		
DEPARTMENT OF AGRICULTURE					
2 CSR 30-10.010	Animal Health	This Issue	This Issue		
2 CSR 90-20.040	Weights, Measures and Consumer Protection		46 MoReg 1585	47 MoReg 75	
2 CSR 90-21.010	Weights, Measures and Consumer Protection		46 MoReg 1585	47 MoReg 75	
2 CSR 90-22.140	Weights, Measures and Consumer Protection		46 MoReg 1586	47 MoReg 76	
2 CSR 90-23.010	Weights, Measures and Consumer Protection		46 MoReg 1586	47 MoReg 76	
2 CSR 90-25.010	Weights, Measures and Consumer Protection		46 MoReg 1586	47 MoReg 76	
2 CSR 90-60.020	Weights, Measures and Consumer Protection		This Issue		
2 CSR 90-60.030	Weights, Measures and Consumer Protection		This Issue		
2 CSR 90-61.010	Weights, Measures and Consumer Protection		This Issue		
2 CSR 90-63.010	Weights, Measures and Consumer Protection		This Issue		
2 CSR 90-63.020	Weights, Measures and Consumer Protection		This Issue		
2 CSR 90-64.010	Weights, Measures and Consumer Protection		This Issue		
DEPARTMENT OF CONSERVATION					
3 CSR 10-4.117	Conservation Commission		46 MoReg 1730	47 MoReg 77	
3 CSR 10-5.205	Conservation Commission		46 MoReg 1730	47 MoReg 77	
3 CSR 10-5.210	Conservation Commission		46 MoReg 1736	47 MoReg 77	
3 CSR 10-5.220	Conservation Commission		46 MoReg 1736	47 MoReg 78	
3 CSR 10-6.510	Conservation Commission		46 MoReg 1736	47 MoReg 78	
3 CSR 10-6.525	Conservation Commission		46 MoReg 1737	47 MoReg 78	
3 CSR 10-6.550	Conservation Commission		46 MoReg 1737	47 MoReg 79	
3 CSR 10-7.450	Conservation Commission		47 MoReg 67		
3 CSR 10-7.455	Conservation Commission			47 MoReg 79	
3 CSR 10-7.715	Conservation Commission		46 MoReg 1737	47 MoReg 79	
3 CSR 10-7.725	Conservation Commission		46 MoReg 1738	47 MoReg 80	
3 CSR 10-8.510	Conservation Commission		47 MoReg 68		
3 CSR 10-8.515	Conservation Commission		47 MoReg 118		
3 CSR 10-10.725	Conservation Commission		46 MoReg 1738	47 MoReg 80	
3 CSR 10-11.110	Conservation Commission		46 MoReg 1742	47 MoReg 80	
3 CSR 10-11.130	Conservation Commission		46 MoReg 1742	47 MoReg 80	
3 CSR 10-11.190	Conservation Commission		46 MoReg 1745	47 MoReg 81	
3 CSR 10-11.205	Conservation Commission		46 MoReg 1745	47 MoReg 81	
3 CSR 10-11.210	Conservation Commission		46 MoReg 1746	47 MoReg 81	
3 CSR 10-12.109	Conservation Commission		46 MoReg 1746	47 MoReg 82	
3 CSR 10-12.125	Conservation Commission		46 MoReg 1747	47 MoReg 82	
3 CSR 10-12.145	Conservation Commission		46 MoReg 1747	47 MoReg 82	
3 CSR 10-20.805	Conservation Commission		46 MoReg 1748	47 MoReg 82	
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION					
5 CSR 10-1.010	Commissioner of Education		46 MoReg 1450	47 MoReg 27	
5 CSR 10-3.010	Commissioner of Education		46 MoReg 1451	47 MoReg 27	
5 CSR 20-100.110	Division of Learning Services		46 MoReg 2242		
5 CSR 20-100.220	Division of Learning Services		46 MoReg 1451	47 MoReg 27	
5 CSR 20-200.265	Division of Learning Services		47 MoReg 68		
5 CSR 20-200.310	Division of Learning Services formerly 5 CSR 20-500.330		47 MoReg 69		
5 CSR 20-400.210	Division of Learning Services		46 MoReg 1956		
5 CSR 20-400.230	Division of Learning Services		46 MoReg 2242		
5 CSR 20-400.260	Division of Learning Services		46 MoReg 1956		
5 CSR 20-400.410	Division of Learning Services		46 MoReg 2245R		
5 CSR 20-400.540	Division of Learning Services		46 MoReg 1751	This Issue	
5 CSR 20-400.660	Division of Learning Services		46 MoReg 2245		
5 CSR 20-400.670	Division of Learning Services		46 MoReg 2247		
5 CSR 20-500.330	Division of Learning Services moved to 5 CSR 20-200.310		47 MoReg 69		
5 CSR 20-700.100	Division of Learning Services		46 MoReg 1752	This Issue	
5 CSR 25-100.310	Office of Childhood formerly 5 CSR 20-100.310		46 MoReg 1838R	This IssueR	
5 CSR 25-300.010	Office of Childhood		46 MoReg 2130		
5 CSR 25-300.030	Office of Childhood		46 MoReg 2131R		
5 CSR 25-300.070	Office of Childhood		46 MoReg 2131		
5 CSR 25-300.080	Office of Childhood		46 MoReg 2132		
5 CSR 25-300.100	Office of Childhood		46 MoReg 2132R		
5 CSR 25-300.120	Office of Childhood		46 MoReg 2132		
5 CSR 25-400.010	Office of Childhood		46 MoReg 2133		
5 CSR 25-400.015	Office of Childhood		46 MoReg 2134R		
5 CSR 25-400.025	Office of Childhood		46 MoReg 2134		
5 CSR 25-400.045	Office of Childhood		46 MoReg 2135		
5 CSR 25-400.055	Office of Childhood		46 MoReg 2136		
5 CSR 25-400.105	Office of Childhood		46 MoReg 2136		
5 CSR 25-400.115	Office of Childhood		46 MoReg 2137		
5 CSR 25-400.125	Office of Childhood		46 MoReg 2137		
5 CSR 25-400.145	Office of Childhood		46 MoReg 2138		
5 CSR 25-400.155	Office of Childhood		46 MoReg 2138		
5 CSR 25-400.210	Office of Childhood		46 MoReg 2139		
5 CSR 25-400.220	Office of Childhood		46 MoReg 2139		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
5 CSR 25-500.010	Office of Childhood		46 MoReg 2140		
5 CSR 25-500.022	Office of Childhood		46 MoReg 2141R		
5 CSR 25-500.032	Office of Childhood		46 MoReg 2141		
5 CSR 25-500.042	Office of Childhood		46 MoReg 2142		
5 CSR 25-500.052	Office of Childhood		46 MoReg 2143		
5 CSR 25-500.102	Office of Childhood		46 MoReg 2143		
5 CSR 25-500.122	Office of Childhood		46 MoReg 2144		
5 CSR 25-500.152	Office of Childhood		46 MoReg 2145		
5 CSR 25-500.162	Office of Childhood		46 MoReg 2145		
5 CSR 25-500.222	Office of Childhood		46 MoReg 2146		
5 CSR 25-500.230	Office of Childhood		46 MoReg 2147		
5 CSR 25-600.010	Office of Childhood		46 MoReg 2147		
5 CSR 25-600.020	Office of Childhood		46 MoReg 2148		
5 CSR 25-600.040	Office of Childhood		46 MoReg 2148		
5 CSR 25-600.050	Office of Childhood		46 MoReg 2148		
5 CSR 30-680.010	Division of Financial and Administrative Services		46 MoReg 1752	This Issue	
5 CSR 30-680.020	Division of Financial and Administrative Services		46 MoReg 1754	This Issue	
5 CSR 30-680.030	Division of Financial and Administrative Services		46 MoReg 1754R	This IssueR	
5 CSR 30-680.035	Division of Financial and Administrative Services		46 MoReg 1755	This Issue	
5 CSR 30-680.040	Division of Financial and Administrative Services		46 MoReg 1755	This Issue	
5 CSR 30-680.050	Division of Financial and Administrative Services		46 MoReg 1756R	This IssueR	
5 CSR 30-680.060	Division of Financial and Administrative Services		46 MoReg 1756	This Issue	
5 CSR 30-680.070	Division of Financial and Administrative Services		46 MoReg 1756	This Issue	
DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT					
6 CSR 10-2.195	Commissioner of Higher Education and Workforce Development		46 MoReg 1757	This Issue	
6 CSR 10-14.010	Commissioner of Higher Education and Workforce Development		46 MoReg 1958	This Issue	
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS					
8 CSR 10-3.160	Division of Employment Security	46 MoReg 1575	46 MoReg 1587	46 MoReg 2295	
8 CSR 50-5.007	Division of Workers' Compensation		47 MoReg 119		
8 CSR 60-2.025	Missouri Commission on Human Rights		46 MoReg 1838		
8 CSR 60-2.100	Missouri Commission on Human Rights		46 MoReg 1839		
DEPARTMENT OF MENTAL HEALTH					
9 CSR 40-5.015	Licensing Rules		46 MoReg 1453R	46 MoReg 2295R	
9 CSR 40-5.035	Licensing Rules		46 MoReg 1453R	46 MoReg 2295R	
9 CSR 40-5.055	Licensing Rules		46 MoReg 1454R	46 MoReg 2295R	
9 CSR 40-5.075	Licensing Rules		46 MoReg 1454	46 MoReg 2296	
DEPARTMENT OF NATURAL RESOURCES					
10 CSR 10-5.381	Air Conservation Commission		46 MoReg 1840		
10 CSR 10-5.490	Air Conservation Commission		46 MoReg 2249		
10 CSR 10-6.062	Air Conservation Commission		46 MoReg 2260		
10 CSR 10-6.210	Air Conservation Commission		This Issue		
10 CSR 10-6.300	Air Conservation Commission		46 MoReg 1590R	47 MoReg 128R	
10 CSR 10-6.310	Air Conservation Commission		46 MoReg 2263		
10 CSR 20-7.031	Clean Water Commission		46 MoReg 1153	47 MoReg 27	
DEPARTMENT OF PUBLIC SAFETY					
11 CSR 30-7.020	Missouri Gaming Commission		47 MoReg 14		
11 CSR 45-7.130	Missouri Gaming Commission		46 MoReg 1962		
11 CSR 45-9.113	Missouri Gaming Commission		46 MoReg 1962		
11 CSR 45-9.123	Missouri Gaming Commission		46 MoReg 1759	47 MoReg 128	
11 CSR 70-2.190	Division of Alcohol and Tobacco Control				46 MoReg 2192
11 CSR 90-2.010	Missouri 911 Service Board	46 MoReg 1713	46 MoReg 1759 This Issue		
DEPARTMENT OF REVENUE					
12 CSR 10-2.067	Director of Revenue		46 MoReg 2149		
12 CSR 10-2.085	Director of Revenue		46 MoReg 2152R		
12 CSR 10-2.230	Director of Revenue		46 MoReg 2152R		
12 CSR 10-8.010	Director of Revenue		47 MoReg 70R		
12 CSR 10-8.020	Director of Revenue		47 MoReg 70R		
12 CSR 10-8.030	Director of Revenue		47 MoReg 70R		
12 CSR 10-8.120	Director of Revenue		47 MoReg 71R		
12 CSR 10-8.160	Director of Revenue		47 MoReg 71R		
12 CSR 10-8.170	Director of Revenue		47 MoReg 71R		
12 CSR 10-8.180	Director of Revenue		47 MoReg 71R		
12 CSR 10-8.190	Director of Revenue		47 MoReg 72R		
12 CSR 10-25.120	Director of Revenue		46 MoReg 1963	This Issue	
12 CSR 10-26.230	Director of Revenue	46 MoReg 1713	46 MoReg 1759	47 MoReg 83	
12 CSR 10-41.010	Director of Revenue	46 MoReg 2111	46 MoReg 2152		
12 CSR 10-104.030	Director of Revenue		46 MoReg 2156		
12 CSR 10-108.300	Director of Revenue		46 MoReg 2156		
12 CSR 10-111.060	Director of Revenue		46 MoReg 2157		
12 CSR 30-4.010	Sate Tax Commission		47 MoReg 122		
DEPARTMENT OF SOCIAL SERVICES					
13 CSR 10-3.040	Division of Finance and Administrative Services		46 MoReg 1761	This Issue	
13 CSR 10-3.050	Division of Finance and Administrative Services		46 MoReg 1762	This Issue	
13 CSR 35-35.100	Children's Division	46 MoReg 1130	46 MoReg 1295	46 MoReg 2296	
13 CSR 35-35.140	Children's Division formerly 13 CSR 35-50.010	46 MoReg 1134	46 MoReg 1301	46 MoReg 2296	
13 CSR 35-50.010	Child Support Enforcement moved to 13 CSR 35-35.140	46 MoReg 1134	46 MoReg 1301	46 MoReg 2296	
13 CSR 35-71.010	Children's Division	46 MoReg 1907	46 MoReg 1964	This Issue	
13 CSR 35-71.015	Children's Division	46 MoReg 1909	46 MoReg 1966	This Issue	
13 CSR 35-71.020	Children's Division	46 MoReg 1917	46 MoReg 1974	This Issue	
13 CSR 35-71.030	Children's Division	46 MoReg 1920	46 MoReg 1977	This Issue	
13 CSR 35-71.045	Children's Division	46 MoReg 1924	46 MoReg 1980	This Issue	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
13 CSR 35-71.150	Children's Division	47 MoReg 5	47 MoReg 14		
13 CSR 35-71.300	Children's Division	46 MoReg 1928	46 MoReg 1983	This Issue	
13 CSR 35-73.010	Children's Division	46 MoReg 1932	46 MoReg 1987	This Issue	
13 CSR 35-73.012	Children's Division	46 MoReg 1933	46 MoReg 1989	This Issue	
13 CSR 35-73.017	Children's Division	46 MoReg 1936	46 MoReg 1990	This Issue	
13 CSR 35-73.030	Children's Division	46 MoReg 1939	46 MoReg 1994	This Issue	
13 CSR 35-73.035	Children's Division	46 MoReg 1940	46 MoReg 1994	This Issue	
13 CSR 40-2.015	Family Support Division		46 MoReg 325	46 MoReg 1094W	
		46 MoReg 2114	46 MoReg 2158		
13 CSR 40-7.010	Family Support Division		46 MoReg 327	46 MoReg 1338W	
		46 MoReg 2114	46 MoReg 2159		
13 CSR 40-7.050	Family Support Division	46 MoReg 2115	46 MoReg 2159		
13 CSR 65-2.010	Missouri Medicaid and Audit Compliance		46 MoReg 1763	47 MoReg 129	
13 CSR 65-2.020	Missouri Medicaid and Audit Compliance		46 MoReg 1767		
13 CSR 65-2.030	Missouri Medicaid and Audit Compliance		46 MoReg 1772	This Issue	
13 CSR 70-1.010	MO HealthNet Division		46 MoReg 1858	47 MoReg 130	
13 CSR 70-3.020	MO HealthNet Division		46 MoReg 1773R	This IssueR	
13 CSR 70-3.035	MO HealthNet Division	46 MoReg 1941	46 MoReg 1995		
13 CSR 70-3.050	MO HealthNet Division		46 MoReg 1621R	47 MoReg 42R	
13 CSR 70-3.120	MO HealthNet Division		46 MoReg 1675		
			This Issue		
13 CSR 70-3.140	MO HealthNet Division		46 MoReg 1774	This Issue	
13 CSR 70-3.180	MO HealthNet Division		46 MoReg 1675		
			This Issue		
13 CSR 70-3.200	MO HealthNet Division	46 MoReg 1715	46 MoReg 1774		
13 CSR 70-3.230	MO HealthNet Division		47 MoReg 22		
13 CSR 70-3.260	MO HealthNet Division moved to 13 CSR 70-25.150		46 MoReg 1865	47 MoReg	
13 CSR 70-3.330	MO HealthNet Division		47 MoReg 22		
13 CSR 70-4.050	MO HealthNet Division		46 MoReg 1775R	This IssueR	
13 CSR 70-4.100	MO HealthNet Division		46 MoReg 1676		
			This Issue		
13 CSR 70-4.110	MO HealthNet Division		46 MoReg 1677		
			This Issue		
13 CSR 70-4.120	MO HealthNet Division		46 MoReg 1678		
			This Issue		
13 CSR 70-6.020	MO HealthNet Division		46 MoReg 1996		
13 CSR 70-10.016	MO HealthNet Division	46 MoReg 1829	46 MoReg 1868	47 MoReg 130	
13 CSR 70-15.015	MO HealthNet Division	46 MoReg 1715	46 MoReg 1775	This Issue	
13 CSR 70-15.020	MO HealthNet Division		46 MoReg 1679		
			This Issue		
13 CSR 70-15.030	MO HealthNet Division		This Issue		
13 CSR 70-15.040	MO HealthNet Division		46 MoReg 1999		
13 CSR 70-15.070	MO HealthNet Division	46 MoReg 1667	46 MoReg 1680	This Issue	
13 CSR 70-15.110	MO HealthNet Division	46 MoReg 1718	46 MoReg 1778		
13 CSR 70-20.031	MO HealthNet Division	46 MoReg 2219	46 MoReg 2274		
13 CSR 70-25.150	MO HealthNet Division formerly 13 CSR 70-3.260		46 MoReg 1865	47 MoReg 130	
13 CSR 70-50.010	MO HealthNet Division		46 MoReg 1590	47 MoReg 42	
13 CSR 70-55.010	MO HealthNet Division		46 MoReg 1591	47 MoReg 42	
13 CSR 70-65.010	MO HealthNet Division		46 MoReg 1685		
			This Issue		
13 CSR 70-70.010	MO HealthNet Division		46 MoReg 1621	47 MoReg 42	
13 CSR 70-90.010	MO HealthNet Division	46 MoReg 601 46 MoReg 999T 46 MoReg 2116	46 MoReg 624	46 MoReg 1339 W	
13 CSR 70-100.010	MO HealthNet Division		46 MoReg 2161		
			46 MoReg 2002		
ELECTED OFFICIALS					
15 CSR 30-51.075	Secretary of State		46 MoReg 2274		
15 CSR 30-51.172	Secretary of State		46 MoReg 2275		
15 CSR 50-1.010	Treasurer		47 MoReg 72		
15 CSR 50-4.010	Treasurer		46 MoReg 2161	This Issue	
15 CSR 50-4.020	Treasurer		46 MoReg 2162	This Issue	
15 CSR 50-4.030	Treasurer		46 MoReg 2164	This Issue	
RETIREMENT SYSTEMS					
16 CSR 10-4.007	The Public School Retirement System of Missouri		46 MoReg 1622	47 MoReg 130	
16 CSR 10-6.015	The Public School Retirement System of Missouri		46 MoReg 1622	47 MoReg 131	
16 CSR 20-4.010	Missouri Local Government Employees' Retirement System (LAGERS)		46 MoReg 1591	46 MoReg 2296	
PUBLIC DEFENDER COMMISSION					
18 CSR 10-3.010	Office of State Public Defender		47 MoReg 123		
DEPARTMENT OF HEALTH AND SENIOR SERVICES					
19 CSR 10-4.020	Office of the Director	46 MoReg 1835			
19 CSR 20-1.030	Division of Community and Public Health		46 MoReg 1302	46 MoReg 2337	
19 CSR 20-20	Division of Community and Public Health				47 MoReg 132
19 CSR 20-20.020	Division of Community and Public Health	47 MoReg 115	47 MoReg 124		
19 CSR 20-20.040	Division of Community and Public Health				47 MoReg 132
19 CSR 20-20.050	Division of Community and Public Health				47 MoReg 132
19 CSR 30-1.002	Division of Regulation and Licensure	46 MoReg 1941	46 MoReg 2004	This Issue	
19 CSR 30-30.060	Division of Regulation and Licensure	46 MoReg 1954	46 MoReg 2016		
19 CSR 30-81.030	Division of Regulation and Licensure		46 MoReg 334	46 MoReg 1339	
		46 MoReg 2117	46 MoReg 2164		
19 CSR 30-82.010	Division of Regulation and Licensure	46 MoReg 2323	46 MoReg 2327		
19 CSR 30-82.050	Division of Regulation and Licensure	46 MoReg 1725	46 MoReg 1785	47 MoReg 131	
19 CSR 60-50	Missouri Health Facilities Review Committee				47 MoReg 43 47 MoReg 87
19 CSR 73-1.010	Missouri Board of Nursing Home Administrators		47 MoReg 24		
19 CSR 73-2.015	Missouri Board of Nursing Home Administrators		47 MoReg 24		
19 CSR 73-2.055	Missouri Board of Nursing Home Administrators		47 MoReg 24		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
19 CSR 73-2.085	Missouri Board of Nursing Home Administrators		47 MoReg 25		
19 CSR 73-2.110	Missouri Board of Nursing Home Administrators		47 MoReg 25		
19 CSR 73-2.120	Missouri Board of Nursing Home Administrators		47 MoReg 26		
DEPARTMENT OF COMMERCE AND INSURANCE					
20 CSR	Applied Behavior Analysis Maximum Benefit				47 MoReg 87
20 CSR	Construction Claims Binding Arbitration Cap				47 MoReg 43
20 CSR	Non-Economic Damages in Medical Malpractice Cap				47 MoReg 87
20 CSR	Sovereign Immunity Limits				47 MoReg 43
20 CSR	State Legal Expense Fund Cap				47 MoReg 43
20 CSR 200-2.100	Insurance Solvency and Company Regulation		46 MoReg 1786		
20 CSR 200-2.900	Insurance Solvency and Company Regulation		46 MoReg 1797		
20 CSR 200-11.101	Insurance Solvency and Company Regulation		46 MoReg 1800		
20 CSR 500-1.100	Property and Casualty		46 MoReg 2328		
20 CSR 500-2.600	Property and Casualty		46 MoReg 1801		
20 CSR 700-1.130	Insurance Licensing		46 MoReg 2329		
20 CSR 700-3.200	Insurance Licensing		46 MoReg 2329		
20 CSR 2010-2.100	Missouri State Board of Accountancy		46 MoReg 2179		
20 CSR 2010-4.020	Missouri State Board of Accountancy		47 MoReg 72		
20 CSR 2030-6.020	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects				
20 CSR 2030-16.020	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		46 MoReg 1874	47 MoReg 131	
20 CSR 2030-16.030	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		This Issue		
20 CSR 2030-19.010	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		This Issue		
20 CSR 2030-19.020	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		This Issue		
20 CSR 2030-20.010	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		This Issue		
20 CSR 2040-2.011	Office of Athletics		46 MoReg 2275		
20 CSR 2040-2.021	Office of Athletics		46 MoReg 2179		
20 CSR 2040-5.040	Office of Athletics		46 MoReg 1623	46 MoReg 2337	
20 CSR 2040-5.060	Office of Athletics		46 MoReg 1623	46 MoReg 2338	
20 CSR 2115-2.062	State Committee of Dietitians		47 MoReg 73R		
20 CSR 2150-2.200	State Board of Registration for the Healing Arts	46 MoReg 1837			
20 CSR 2150-7.100	State Board of Registration for the Healing Arts		46 MoReg 2330		
20 CSR 2150-7.122	State Board of Registration for the Healing Arts		46 MoReg 2330		
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6 CSR 10-2.190	A+ Scholarship Program46 MoReg 903	May 12, 2021 Feb. 21, 2022
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8 CSR 10-3.160	Waiver of Recovery of Overpayments Under the Coronavirus Aid, Relief and Economic Security Act (CARES), as Amended .46 MoReg 1575	July 19, 2021	Feb. 24, 2022
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12 CSR 10-41.010	Annual Adjusted Rate of Interest46 MoReg 2111	Jan. 1, 2022 June 29, 2022
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13 CSR 35-35.100	Response and Evaluation Process for Case Management of Children in Foster Care46 MoReg 1130	July 1, 2021 Feb. 24, 2022
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13 CSR 70-15.110	Federal Reimbursement Allowance (FRA)46 MoReg 1718	Sept. 10, 2021	March 8, 2022
13 CSR 70-15.160	Outpatient Hospital Services Reimbursement Methodology .46 MoReg 1578	July 20, 2021	Feb. 24, 2022
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19 CSR 30-82.010	General Licensure Requirements46 MoReg 2323	Nov. 29, 2021	May 27, 2022
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22 CSR 10-2.055	Medical Plan Benefit Provisions and Covered Charges46 MoReg 2221	Jan. 1, 2022	June 29, 2022
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Orders****Subject Matter****Filed Date****Publication****2022**

22-02	Declares a State of Emergency and directs the Missouri State Emergency Operations Plan be activated due to forecasted severe winter storm systems.	February 1, 2022	Next Issue
22-01	Establishes and Designates the Missouri Early Childhood State Advisory Council.	January 7, 2022	This Issue

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21-13	Creates and establishes the Missouri Supply Chain Task Force.	November 22, 2021	47 MoReg 12
21-12	Designates members of his staff to have supervisory authority over departments, divisions and agencies of state government.	November 5, 2021	46 MoReg 2325
21-11	Orders state offices to be closed on Friday, November 26, 2021.	November 2, 2021	46 MoReg 2241
21-10	Orders steps to oppose federal COVID-19 vaccine mandates within all agencies, boards, commissions, and other entities within the executive branch of state government.	October 28, 2021	46 MoReg 2239
21-09	Terminates the state of emergency declared in Executive Order 20-02, declares a state of emergency, suspends certain regulations related to telemedicine and physical presence for executing documents, and allows state agencies to waive some regulatory requirements.	August 27, 2021	46 MoReg 1727
21-08	Designates members of his staff to have supervisory authority over departments, divisions and agencies of state government	August 10, 2021	46 MoReg 1673
Proclamation	Convenes the First Extra Session of the First Regular Session of the One Hundred and First General Assembly for extending the Federal Reimbursement Allowances (FRA) and related allowances, taxes, and assessments necessary for funding MO HealthNet	June 22, 2021	46 MoReg 1447
21-07	Extends Executive Order 20-02, Executive Order 20-04, Executive Order 20-05, Executive Order 20-06, and Executive Order 20-14 until August 31, 2021	March 26, 2021	46 MoReg 750
21-06	Creates and establishes the Show Me Strong Recovery Task Force and rescinds Executive Order	March 22, 2021	46 MoReg 748
21-05	Designates members of his staff to have supervisory authority over departments, divisions and agencies of state government	February 24, 2021	46 MoReg 605
21-04	Extends Executive Order 21-03 until February 28, 2021 and terminates Executive Order 20-17.	February 19, 2021	46 MoReg 603
21-03	Declares a State of Emergency and exempts hours of service requirements for vehicles transporting residential heating fuel until February 21, 2021	February 11, 2021	46 MoReg 495
21-02	Establishes the Office of Childhood within the Department of Elementary and Secondary Education	January 28, 2021	46 MoReg 394
21-01	Terminates Executive Orders 03-11 and 02-05, and modifies provisions of Executive Order 05-06	January 7, 2021	46 MoReg 314

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Administrative Rules Contact Information

General Inquiries

(573) 751-4015
rules@sos.mo.gov

Curtis W. Treat, Editor-in-Chief

(573) 751-2022
curtis.treat@sos.mo.gov

Stephanie Martin, Managing Editor

(573) 522-2196
stephanie.martin@sos.mo.gov

Jacqueline D. White, Publication Specialist II

(573) 526-1259
jacqueline.white@sos.mo.gov

Vonne Kilbourn, Editor II

(573) 751-1818
vonne.kilbourn@sos.mo.gov

Jennifer Alex Moore, Editor

(573) 522-2593
jennifer.moore@sos.mo.gov

Tammy Winkelman, Administrative Aide III

(573) 751-4015
tammy.winkelman@sos.mo.gov